LOK SABHA DEBATES

(Part I – Questions and Answers)

VOLUME IV, 1954

(23rd Aug. – 24th Sept. 1954)

सत्यमेव जयते

SEVENTH SESSION

1954

LOK SABHA SECRETARIAT

NEW DELHI

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LOK SABHA

Wednesday, 15th September, 1954.

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

ORDNANCE ESTABLISHMENTS

***928. Shri V. P. Nayar:** Will the Minister of **Defence** be pleased to state:

(a) what action, if any, has been taken by Government in pursuance of the view of the Central Pay Commission regarding the stability of service of the civilian personnel in the Ordnance Establishments of the Defence Forces;

(b) whether it is a fact that for determining the seniority of temporary establishment (civilian) with long continuous service, only service from 1st August, 1949 is taken into account; and

(c) if so, what were the reasons for fixing up this particular date as qualifying date?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Extra Temporary Establishment was abolished and persons belonging to that Cadre were transferred to the regular cadre. A percentage of the temporary non-industrial personnel, according to the permanent requirement of each establishment, have already been confirmed, thereby securing stability of service to them. It is now proposed to create very shortly a permanent cadre of industrial personnel, more than 40 per cent. of whom are expected to be confirmed.

(b) Seniority in temporary establishment counts from the date the employee is appointed to that cadre. The persons formerly employed on Extra Temporary Establishment and brought on to the Regular Cadre with effect from 1st August 1949 count their seniority from that date.

(c) The terms and conditions of service of E.T.E. personnel differed widely from those governing the regular employees. They were recruited locally on daily rates of pay. Their seniority is, therefore, reckoned from the date they came on to the regular establishment.

Shri V. P. Nayar: Is it not a fact that by fixing the date as 1st August, 1949 over fifteen thousand employees with services more than five years and up to ten years will not get any benefit of their seniority on their confirmation?

Shri Satish Chandra: It is not correct to say that they will not get any benefit. All those persons belonging to E.T.E. cadre will get gratuity for the period they had served before 1st August, 1949, provided they had put in a continuous minimum service of five years.

Shri V. P. Nayar: May I know whether it is not a fact that there is considerable resentment amongst workers over fixing the date on an *ad hoc* basis, and may I also know

whether Government have not received any legal notice from one of the establishment organisations informing Government that they propose to resort to courts of law to get proper redress?

Shri Satish Chandra: I am personally not aware of any legal notice having been received. There is some dissatisfaction among the erstwhile E.T.E. cadre, but the hon. Member, probably, is aware that these employees were working in defence establishment on daily rate of pay and without any guarantee of permanency in service. From the day they were brought on to the regular temporary cadre and absorbed in the regular service, they are entitled to all the benefits which are admissible to the latter.

Shri V. P. Nayar: Could I know what were the main considerations for fixing the date as 1st August, 1949?

Shri Satish Chandra: Because on that date these workers who were paid on a 'no-work-no-pay' basis, on a daily wage system, were brought on to the regular cadre

Mr. Speaker: Why was 1st of August, 1949, fixed as the date and not any other date: that is his point.

Shri Satish Chandra: The decision was taken round about that date and so 1st August, 1949, was fixed.

ORDNANCE FACTORIES RE-ORGANISATION COMMITTEE

*930. **Shri A. K. Gopalan:** Will the Minister of **Defence** be pleased to state·

(a) the number of ordnance and other factories visited by the Ordnance Factories Re-organisation Committee so far;

(b) the number of witnesses examined; and

(c) when the report of the Committee is likely to be submitted and laid on the Table of the House?

The Deputy Minister of Defence (Shri Satish Chandra): (a) The Ordnance Factories Re-organisation Committee have visited all Ordnance Factories and also a few non-ferrous factories in the private sector.

(b) The Committee has interviewed 55 individual witnesses possessing some background and knowledge on Ordnance Factories. In addition they have examined 20 senior officers from the Ministries of Finance, Commerce and Industry, Defence and the three Services. Hearings have been given to the representatives of the Engineering Association of India; Indian Chamber of Commerce; Western Indian Metal Rollers Association and the Indian Non-ferrous Metal Association. Representatives of the Ishapore and Cossipore Factories Labour Unions have also been given a hearing by the Committee.

(c) The report of the Committee is expected to be submitted by October 1954. The report which will go in some detail into production in the Ordnance Factories will obviously be secret in nature.

Shri V. P. Nayar: Could I know whether it is a fact that one of the senior officials in the ordnance establishment submitted a report about the utilisation of the idle capacity of the ordnance establishment, and may I also know whether circumstances have now forced him to tender his resignation?

Shri Satish Chandra: The hon. Member is probably referring to the resignation of a senior superintendent of an ordnance factory; but I do not accept that any such reason can be attributed to his resignation.

Shri Joachim Alva: Have the terms of service of British officers in ordnance factories been examined especially from the point of view of officers who served here and who at the end of the service go and join ordnance factories in Pakistan?

Shri Satish Chandra: That is hardly a question which arises from this, but the foreign officers are kept in our

factories only when it is absolutely necessary.

Mr. Speaker: The point was about the possible appointment of our officers in Pakistan.

Shri Satish Chandra: No officer who has opted for Pakistan has come to our ordnance factories. (*Interruption*).

Mr. Speaker: Order, order. They get experience here; they get all the information and knowledge of ordnance factories in India and then work for Pakistan.

Shri Satish Chandra: I am not aware of any such incident.

Shri Heda: The point is whether you can stop it.

Mr. Speaker: Order, order. I am going to the next question.

I.A.S. PROBATIONERS

*932. **Shri S. N. Das:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government have finalised and introduced any course of social welfare subjects for the training of Indian Administrative Service probationers; and

(b) if so, what are the important aspects of the course?

The Deputy Minister of Home Affairs (Shri Datar): (a) As I explained in reply to a previous question on this subject on the 10th March 1953, the syllabus suggested by the Advisory Board of Social Welfare was too long and elaborate and Government were prepared to consider in consultation with the Board the desirability of introducing a modified and less detailed course. The Advisory Board's further recommendations in this regard are awaited.

(b) Does not arise.

Shri S. N. Das: May I know whether the subjects suggested by the Board were only theoretical subjects or they related to the practical aspects of it.

Shri Datar: There were numerous subjects like psychology, social psychology, social pathology etc., and the proposal extended for a period of two years. At present this course extends over ten months or one year and therefore it was found very difficult to have an elaborate syllabus. It is now proposed to give only a condensed form of the various subjects to be introduced here.

Shri S. N. Das: In view of the fact that the Board has suggested something, may I know whether the Home Ministry will itself compress the whole subjects?

Shri Datar: This has been left to the expert in the Social Welfare Board to decide and we are awaiting the report from the Principal of the Social Welfare Board, Miss Vakheria who is not here. She has specially dealt with the subject and we are awaiting her arrival in India as also her recommendations in this respect.

Shri Achuthan: May I know whether the subjects include certain specific subjects which enunciate the principle of dignity of labour in this country?

Shri Datar: Naturally they deal with dignity of labour amongst other very important subjects.

HINDI MEDIUM IN OSMANIA UNIVERSITY

*933. **Shri Gidwani:** Will the Minister of **States** be pleased to state:

(a) whether the Hyderabad State Government have communicated their views to the Government of India regarding Hindi as a medium of teaching in the Osmania University; and

(b) if so, what action Government has taken thereon?

The Minister of Home Affairs and States (Dr. Katju): (a) No.

(b) Does not arise.

Shri Gidwani: Has not the matter been discussed and decided by the Osmania University?

Dr. Katju: I really do not know.

Shri Krishnacharya Joshi: May I know whether introduction of regional languages like Kannada, Telugu and Marathi is under the consideration of the Hyderabad State Government?

Dr. Katju: I really do not know; I should like to have notice of this question.

Shri Heda: Is it not a fact that at present Hindi or Hindustani and English, both are the medium of instruction in Osmania University?

Dr. Katju: I do not know, Sir.

TEMPORARY APPOINTMENTS

*934. **Shri Dabhi:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that the prescribed procedure regarding temporary appointments to Government posts is that where a temporary appointment, made without consulting the Union Public Service Commission, was likely to last more than a year, it should be immediately referred to the Commission;

(b) if so, whether it is a fact that Government do not observe this procedure in several cases; and

(c) if the answer to part (b) above be in the affirmative, what are the reasons therefor?

The Deputy Minister of Home Affairs (Shri Datar): (a) Yes.

(b) and (c). Such cases are liable, occasionally, to occur due to oversight or the difficulty of anticipating future requirements or developments fully, but suitable provision is being made in the Revised Consultation Regulations to prevent this.

Shri Dabhi: May I enquire in how many cases Government did not observe this procedure during the last three years?

Shri Datar: I have not got the figures, but the number is not very large.

Shri Bhagwat Jha Azad: May I know when in contravention of this rule any persons are appointed by the back-door method whether Government issue any circulars that such appointments will be disqualified when they will be made permanent?

Shri Datar: I should like to deprecate the expression "back-door methods", but I would like to point out to the hon. Member that ordinarily under the present rules, temporary appointments are to be made by Government without reference to the U.P.S.C. and one exception has been laid down, namely, that when a temporary appointment is likely to go beyond one year, the consent or the opinion of the U.P.S.C. is required. Sometimes, what happens is that at the time when a temporary appointment is made, it is not possible to anticipate that it would go beyond a period of one year, and that is the reason why sometimes such appointments are made and they go beyond one year.

Shri T. N. Singh: May I know whether it is a fact that more than one appointment for a period of eleven months and twenty or twenty-five days has been made? Are Government aware of such cases?

The Minister of Home Affairs and States (Dr. Katju): Out of hundreds how can I remember about one appointment?

Shri T. N. Singh: It is more than one.

Dr. Katju: One swallow does not make a summer.

Mr. Speaker: The point at issue is this, according to the hon. Member. He says that because Government have to consult the U.P.S.C. for appointments beyond a period of one year, they resort to the method of making appointments for eleven months and twenty-five days.

Dr. Katju: I do not know of any cases where this has been done, but if it has been done, it must have been

for the most exceptional reasons. I want hon. Members to take an indulgent view in this matter.

AUXILIARY AIR FORCE

*935. **Dr. Ram Subhag Singh:** Will the Minister of **Defence** be pleased to state:

(a) whether Government propose to prepare any scheme for the establishment of an auxiliary air force in India; and

(b) if so, by what time Government expect to give effect to the scheme?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes, Sir.

(b) It is hoped to raise the first Auxiliary Air Force Squadron in 1955.

Dr. Ram Subhag Singh: May I know whether only retired pilot and flying instructors will be taken in this force or whether young men who have some knowledge of flying will also be taken?

Sardar Majithia: Anybody who does know how to fly obviously stands a better chance.

Shri G. S. Singh: May I know if the Government has called for registration of certain qualified persons as laid down in the parent Act?

Sardar Majithia: That only applies to the Air Defence Reserve and not to this.

SMALL SAVINGS SCHEMES

*936. **Shri Jhulan Sinha:** Will the Minister of **Finance** be pleased to state:

(a) the total amount collected in Bihar during 1953-54 under the Small Savings Scheme;

(b) the target fixed for the year there; and

(c) the decision as to the extra collection made there?

The Deputy Minister of Finance (Shri A. C. Guha): (a) About Rs. 293 lakhs.

(b) Rs. 2,25 lakhs.

(c) The amount of net collections in excess of the target will be handed over to the State during the current year as additional loan from the Centre.

Shri Jhulan Sinha: May I know if the Central Government had intimated to the Government of Bihar that the extra collection would be earmarked for development purposes and specially for the Gandak Valley Irrigation and Power projects?

Shri A. C. Guha: I do not think there is any such earmarking. The amount will be given naturally for development work in the Plan.

Shrimati Sushama Sen: May I know if any women's organisations are entrusted with the collections under the Small Savings Scheme, and, if so, which are those organisations?

Shri A. C. Guha: There is a Central Advisory Board for women's savings campaign, and I think there is one member on the Board for Bengal, Bihar and Orissa. As far as my memory goes, she is Mira Dutt Gupta who represents these three States.

POPULATION DATA

*937. **Shri Krishnacharya Joshi:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government have scrutinized the data of births and deaths collected by the new system for the improved methods for collection of such data;

(b) whether the new system has been approved; and

(c) if so, whether Government would ask other State Governments to provide similar data?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). No new system for improving the collection of the data of births and deaths has yet been introduced. In 1952 the Registrar General and Census Commissioner for India submitted a

scheme for the Improvement of Population data. The essential parts of this scheme were tried out in certain States in 1952-53 and 1953-54. The results are under examination and study and will be published shortly.

(c) Government have already decided that Home Ministry will now proceed with the scheme for improvement of population data, including the collection of birth and death statistics, and concrete steps will be taken very shortly.

Shri Krishnacharya Joshi: May I know the defects in the old method?

Shri Datar: The defects in the old method were principally those of omission. Most of the registers were not up-to-date, and a number of cases, either of deaths or of births, were not noted at all.

Shri Krishnacharya Joshi: May I know whether all the States maintain births and deaths registers?

Shri Datar: I believe most of the States do maintain, but they have not been kept properly.

N.C.C.

*938. **Sardar Hukam Singh:** Will the Minister of **Defence** be pleased to state:

(a) what percentage of the total strength of the National Cadet Corps at present is made up by girls; and

(b) whether girls are eligible for all divisions of the National Cadet Corps?

The Deputy Minister of Defence (Shri Satish Chandra): (a) 1.15 per cent, but is likely to be raised to about 5 per cent during the current year.

(b) No, Sir; under section 5 of the National Cadet Corps Act, 1948, girls are eligible for recruitment only to the Girls Division of the N.C.C.

Sardar Hukam Singh: May I know whether the Girls Division constitute some portion of junior as well as senior divisions or they are recruited only for the junior division?

Shri Satish Chandra: The units of the Girls Division were raised so far only in universities and colleges, but from this year these are being raised in the schools also.

Sardar Hukam Singh: May I know whether there is any proportion fixed for girls, so far as this recruitment is concerned, in the authorised strength?

Shri Satish Chandra: There is no authorised strength as such for the N.C.C., but I may inform the hon. Member that last year the strength of the cadets was only 600. It has already been incurred to about 870. By the end of current academic year, it is proposed to raise strength of Girls units to more than 5,000 cadets.

Sardar Hukam Singh: Is the strength determined for every year or is any target fixed as the maximum?

Shri Satish Chandra: The target for this year is 5,000. There is no regular increase in targets year by year. It is fixed on an *ad hoc* basis according to the funds available.

Shrimati Ila Palchoudhury: Is there a nursing division in the N.C.C. at all?

Shri Satish Chandra: The curriculum prescribed for the Girls Division includes training in first aid, sanitation, hygiene etc.

TECHNICAL CO-OPERATION AGREEMENT

*939. **Th. Lakshman Singh Charak:** Will the Minister of **Finance** be pleased to state:

(a) whether in pursuance of the Article VI of the General Agreement for Technical Cooperation between the Government of U.S.A. and the Government of India, any annual report of activities has been prepared since 1950;

(b) if so, whether a copy of each of the reports will be laid on the Table of the House; and

(c) whether the reports have been sent to the U.S. Government for perusal?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) and (b). The annual report referred to is in pursuance of the Indo-U.S. Technical Cooperation Agreement signed in 1952 and not the General Agreement signed in 1950. The Report from 1952 is under preparation; and copies will be placed on the Table of the House when the Report is ready.

(c) Does not arise.

Th. Lakshman Singh Charak: May I know if there are any technical experts on behalf of the United States working in India during the year 1953-54, and, if so, how many?

Shri B. R. Bhagat: There are technical experts working, but I would require notice in regard to their number.

Th. Lakshman Singh Charak: Was any machinery also supplied under this Agreement to India?

Shri B. R. Bhagat: This question refers to reports, and in regard to the machinery supplied in a particular year, I am prepared to give the information if the hon. Member tables a separate question.

Shri L. N. Mishra: May I know whether the reported offer for steel plants in India by Soviet Russia comes under this Agreement? If so, what is the position?

Shri B. R. Bhagat: That is outside this.

Shrimati Renu Chakravartty: May I know if under this Agreement the representatives of the U.S. Government also give reports on the progress of the work and whether, before giving them, those reports are made available to the Government of India?

Shri B. R. Bhagat: The Director of the T.C.M. gives his report to his own Government, but there is regular consultation with him when matters arise in the case of each project.

Appointment of Scheduled Castes in Cantonments

***940. Ch. Raghubir Singh:** Will the Minister of **Defence** be pleased to state the action taken so far in pursuance of the decision to reserve seats for Scheduled Castes in Cantonment Boards?

The Deputy Minister of Defence (Sardar Majithia): Except in Ambala Cantonment seats for Scheduled Castes/Tribes have been reserved in the Cantonment Boards of all Class I and II Cantonments (*i.e.* cantonments where the civil population exceeds 2500) which have to elect more than one member to the Cantonment Board.

In Ambala Cantonment no action could be taken so far as the elections had been held in abeyance pending finalisation of the question of excising certain areas from the cantonment. Necessary number of seats will be reserved in this cantonment also at the time of the next elections.

A list of the cantonments in which seats have been reserved for the Scheduled Castes/Tribes, is placed on the Table. [*See* Appendix VI, annexure No. 16.]

Shri Nanadas: May I know the principle that has been observed in reserving seats for the Scheduled Castes?

Sardar Majithia: In the case of cantonments which have to elect—

7 members	... ...	14 per cent
6 members	... ...	16 per cent
5 members	... ...	20 per cent
4 members	... ...	25 per cent
3 members	... ...	33 1/3 per cent
2 members	... ...	50 per cent

Shri Nanadas: May I know why it was not possible for the Government to reserve the seats on the basis of population?

Sardar Majithia: That is exactly what I have said. If you work out the figures, where there are fourteen per cent. of the population and you have got seven members to be elected, we have reserved fourteen per cent.

समाज कल्याण मन्त्रणादाता बोर्ड

*९४४. **श्री एम० एल० द्विवेदी :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) केन्द्रीय समाज कल्याण बोर्ड के तत्वावधान में राज्यों में स्थापित समाज कल्याण मन्त्रणादाता बोर्डों का संगठन किस भांति किया गया है; और

(ख) केन्द्रीय बोर्ड तथा राज्य बोर्डों द्वारा विभिन्न समाज कल्याण संगठनों को कितनी राशि सहाय अनुदान के रूप में प्रदान की गयी है ?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) The Social Welfare Advisory Boards in the States are the advisory counterparts of the Central Social Welfare Board. The Advisory Boards in the States consist of representatives of Voluntary Welfare Organisations which are nominated by the State Governments concerned and the Central Social Welfare Board.

(b) The Central Social Welfare Board has given grants to 870 organisations to the tune of Rs. 26,82,000 upto-date.

No direct grant is given by the State Advisory Boards.

Shri M. L. Dwivedi: May I know what are the functions of these Boards?

Dr. M. M. Das: The functions are: to study the needs and difficulties if the voluntary organisations in the States and direct the execution of the welfare extension projects in these States.

Shri M. L. Dwivedi: May I know whether these Boards have been established in all the States and how is the selection made?

Dr. M. M. Das: They have not been established in all the States but in most of the States they have been established. I have not with me at present the names of the States in which they have been established.

Shri M. L. Dwivedi: What are the establishment costs?

Dr. M. M. Das: The total annual budget of the State Boards is not expected to exceed Rs. 30,000 per year.

Shrimati Renu Chakravartty: May I know if one of the functions of the Advisory Board is to give wide publicity as to the amenities or the help which will be available and to notify the various voluntary organisations to submit a report on their needs?

Dr. M. M. Das: It is one of the functions of the Board to see that the schemes of these welfare projects are executed and implemented and more welfare projects come under the Board for doing welfare work.

दिल्ली राज्य को ऋण तथा अनुदान

*९४५. **श्री नवल प्रभाकर :** क्या वित्त मंत्री यह बताने की कृपा करेंगे कि दिल्ली राज्य को पंचवर्षीय योजना के अन्तर्गत किन कार्यों के निमित्त ऋण तथा अनुदान दिये गये हैं ?

The Deputy Minister of Finance (Shri M. C. Shah): No loans have been given so far but development grants have been given for various purposes such as Grow More Food Schemes and Community Projects.

श्री नवल प्रभाकर : क्या मैं जान सकता हूं कि गो मोर फूड स्कीम के अन्तर्गत कितनी रकम दी गयी हैं ?

Shri M C. Shah: I have not got that figure; I will just supply it to the hon. Member.

श्री नवल प्रभाकर : कितनी रकम दी गयी ?

Mr. Speaker: He has not got the figures.

Shri N. B. Chowdhury: May I know whether the Delhi State applied for any loan?

Shri M. C. Shah: No loans have been given because under the Part "C" States Act, their Consolidated Fund consists of revenues and grants. So long as there was no amendment to the Act, there was no question of asking for loans.

श्री नवल प्रभाकर : क्या मैं जान सकता हूं कि जो रकम निश्चित् की गयी थी, उसमें से अबतक कितनी दी गयी और क्या उसमें कोई रकम लैप्स हो गयी हैं ?

Shri M. C. Shah: As I stated, certain developmental grants are given to the Delhi State. So far as expenditure on education, medical and public health etc. is concerned, it appears in the budgets. If there is a deficit it is covered by the grants by the Centre. The sums of these grants were:

1952-53	Rs. 5,25 lakhs
1953-54	Rs. 14.18 lakhs
1954-55	Rs. 12.19 lakhs

according to the budget estimates. So the question of lapsing does not arise.

INDUSTRIAL INVESTMENT CORPORATION

*948. **Shri Bhagwat Jha Azad:** Will the Minister of **Finance** be pleased to state:

(a) whether Government have received the draft constitution of the proposed Industrial Investment Corporation;

(b) whether Government have given any consideration to the same; and

(c) whether Government have any information about the nature of the talks with the World Bank in this connection?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). Yes, Sir.

(c) Representatives of prospective investors in the Corporation are expected to have talks with the International Bank next month in Washington. These talks will cover all aspects of the Corporation.

A representative of the Government of India will be associated in these talks.

Shri Bhagwat Jha Azad: May I know if the draft constitution of the proposed Industrial Investment Corporation gives any idea of the estimated capital that will be there? What would be the sources?

Shri C. D. Deshmukh: This information has been given in previous questions which have been answered. We stated that the total capital is expected to be about Rs. 35 crores—Rs. 7½ crores resulting from the counter-part funds from steel supplied to the Government of India, Rs. 5 crores from the Indian industrialists, Rs. 1·5 crores from the Development Corporation in the United Kingdom, about half a crore from the United States and the rest made up of expected loans from the International Bank.

Shri Bhagwat Jha Azad: May I know if, for the planned industrial development of this country, the Government will have any control over this Corporation to ask for the diversion of capital from certain industries or they will have the liberty to invest in any industry they like?

Shri C. D. Deshmukh: It will be a private Corporation but Government will be represented there by a director and to that extent of course, Government will have a voice in the decisions taken by the Corporation.

Shri Bhagwat Jha Azad: As this is a private Industrial Investment Corporation, may I know whether it will have the liberty to associate with itself foreign capital?

Shri C. D. Deshmukh: I just referred to the association of foreign capital.

Shri Meghnad Saha: May I know if the Constitution of this Industrial Investment Corporation will be discussed by the Parliament?

Shri C. D. Deshmukh: It is a private Corporation but we shall, at the proper time, be ready to place the information regarding their memoranda of association and articles of association and in particular the Government of India's agreement—that is, the agreement between the Government of India, namely, the President of India and the Corporation—on the Table of the House.

ADMINISTRATION OF ECONOMIC ACTIVITIES

*949. **Shri B. K. Das:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government have evolved any scheme for the training of officers concerned with the administration of economic activities in well-established business organisations as suggested in the First Five Year Plan;

(b) if not, what are the reasons therefor; and

(c) whether Government have any alternative arrangement to achieve this purpose?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The matter is still being examined in consultation with the Planning Commission. It is closely linked with other recommendations of the Planning Commission, especially those relating to the provision of manpower for the needs of economic administration contained in Paragraph 16 of Chapter VI of the Five Year Plan.

Shri B. K. Das: May I know whether any whole-time Director of Training has been appointed?

Shri Datar: Government have decided to appoint one. Still, the actual appointment has not been made.

Shri B. K. Das: May I know whether there is any co-ordination between the Central Government and the States in this matter?

Shri Datar: Co-ordination is being established after full consideration.

Shri B. K. Das: May I know whether we are getting any help from the Technical Co-operation scheme in this matter?

Shri Datar: This aspect of the question is also under consideration.

ILLEGAL ENTRY FROM PAKISTAN

*950. **Shri Radha Raman:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that many cases of illegal entry into India of persons without valid travel documents have been detected on the Indo-Pakistan borders;

(b) the number of such cases that were reported during the last six months; and

(c) the steps taken to check the illegal entry of such persons?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). The information asked for is not available for the last 6 months. However the number of persons who were detected to have illegally entered India during the period, January to April, 1954 was 4149. The staff at the various check posts has been increased to provide mobile units for patrolling duties with a view to checking the illegal entry.

Shri Radha Raman: May I know how many persons were prosecuted and convicted out of those who were detected?

Shri Datar: I have not got those figures here.

Shri Radha Raman: Could you tell us the number of such persons during last year?

Shri Datar: I have not got those figures at all. I have got the figures relating to this question.

Shri Radha Raman: May I know if there were nationals of any countries other than Pakistan?

Shri Datar: This question relates only to Pakistan.

Sardar Hukam Singh: Was there any number who were allowed to stay permanently in spite of their having entered without travel permits?

Shri Datar: After they enter illegally, there is a certain procedure. They have to be prosecuted. After they undergo the sentence, the matter has to be taken up with Pakistan. Then, they have to be sent out. They cannot be sent away by force under the agreement between India and Pakistan.

Sardar Hukam Singh: I wanted to know the number.

Shri Radha Raman: May I know if we have found any spies among them or any incriminating material with them?

Shri Datar: I am not in a position to give any details here.

लोहारू रियासत का खजाना

*९५१. **डा० सत्यवादी :** क्या **राज्य** मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि पंजाब राज्य की रियासत लोहारू के विलयन के समय साढ़े चार लाख रुपया रियासत के खजाने से लिया गया था;

(ख) क्या यह भी सच है कि यह निश्चय हुआ था कि यह धन इसी रियासत के विकास पर व्यय किया जायेगा ; और

(ग) यदि हां, तो क्या सरकार ने अपने निश्चय को कार्यान्वित किया है ?

The Minister of Home Affairs and States (Dr. Katju): (a) A sum of Rs. 4,30,961/11/6 was taken over from the former Loharu State by the Government of the Punjab at the time of merger of the State in the Punjab.

(b) and (c). The Government of India are not aware of any such decision.

डा० सत्यवादी : क्या मैं जान सकता हूं कि इस रुपये के मुताल्लिक कोई मुआहदा हुआ था ? यदि हां, तो उस में क्या क्या शरायत थीं ?

डा० काटजू : मैं ने अभी अर्ज किया कि जहां तक हम को मालूम हुआ है, कोई मुआहदा नहीं हुआ था ।

Rural Education

*952. **Shri Jangde:** Will the Minister of **Education** be pleased to state:

(a) whether a Committee of experts for Higher Rural Education has been appointed;

(b) if so, the names of the personnel of the Committee; and

(c) the terms of reference to the Committee?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes.

(b) 1. Dr. K. L. Shrimali, Parliamentary Secretary to the Minister for Education.

2. Shri J. C. Mathur, I.C.S., Education Secretary, Bihar.

3. Shri R. K. Patil, Ex-Minister for Development, Madhya Pradesh.

4. Mr. L. K. Elmherst, Dartington Hall, U.K.

5. Dr. L H. Foster, President, Tuskegee Institute, U.S.A.

(c) The team will undertake a careful study and appraisal of promising ideas, institutions and experiments in

the field of higher education in rural areas with a view to recommending a suitable pattern of higher education which would meet the special requirements of rural areas.

श्री जांगड़े : क्या मैं जान सकता हूं कि देहाती क्षेत्रों की शिक्षा प्रणाली के लिये जो समिति बनाई गई हैं उस समिति के अनुसार जो शिक्षा प्रणाली देहातों में हैं वह शहरों की प्रणाली से किस प्रकार भिन्नता रक्खेगी ?

Dr. M. M. Das: The pattern of higher education in the rural areas has not yet been formulated.

श्री जांगड़े : क्या मैं जान सकता हूं कि देहाती क्षेत्रों की उच्च शिक्षा के लिये जिस तरह समिति बनाई गई हैं उसी तरह से हाई स्कूल की शिक्षा के लिये भी कोई समिति बनाई गई हैं, या इस के ऊपर कभी विचार किया गया हैं ?

Dr. M. M. Das: So far as secondary education is concerned, it is the same all over the country. That multi-purpose schools scheme is before the Government.

Shri Meghnad Saha: May I know if the Ministry is not aware of the scheme of rural universities which was formulated by the University Commission in 1949?

Dr. M. M. Das: The present question relates to the Committee on Higher Rural Education. This Committee has been formed to collect information so that rural universities may be established.

श्री जांगड़े : अभी माननीय संसद सचिव ने कहा कि माध्यमिक शिक्षा देहातों और शहरों में करीब करीब एक सी हैं, तो क्या मैं जान सकता हूं कि देहाती क्षेत्रों की उच्च शिक्षा के लिये क्यों अलग कमेटी बनाई गई हैं ?

شکشا و پراکرتک سنسادھن تتھا

ویگیانک کویشلا سلتری (مولانا آزاد) : یہ اسکولوں.....

[The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): This is for schools.....]

श्री जांगड़े : क्या मैं जान सकता हूं:.....

Mr. Speaker: Order, order. Let him hear the hon. Minister.

مولانا آزاد : یہ کمیٹی اسکولوں کے لئے نہیں ہے - یونیورسٹی کے لئے ہے -

[**Maulana Azad:** This committee is not for schools, but is for the universities.]

Mr. Speaker: We will go to the next question.

INDO-GERMAN INDUSTRIAL CO-OPERATION SCHEME

*953. **Shri Viswanatha Reddy:** Will the Minister of **Education** be pleased to state:

(a) the number of technicians and students who are to be trained in Germany under the Indo-German Industrial Co-operation Scheme in 1954-55;

(b) the main branches of study under the Scheme; and

(c) the machinery that has been evolved to select the trainees?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) 80.

(b) Electrical, Mechanical & Chemical Engineering, Coal Mining, Metallurgy, Iron & Steel, Ceramics, Pharmaceuticals

(c) The Selection Committee appointed by the Minister.

Shri Viswanatha Reddy: May I know whether under this scheme the trainees are to be drawn only from the State industrial undertakings or from private undertakings also?

Dr. M. M. Das: The sponsoring agents who have sent the names of nominees are the Central Government, State Governments, technical institutions and private industries.

Sardar A. S. Saigal: May I know whether these 80 technicians have been given these scholarships for practical training or for post-graduate training?

Dr. M. M. Das: These 80 technicians and engineers are for practical training. Fifteen scholarships for teachers and research workers have also been awarded for post-graduate studies.

Shri Bhagwat Jha Azad: May I know if these trainees who have been sent for higher education, have been guaranteed that on their return they will get service in the same subject or in different subjects?

Dr. M. M. Das: It was made necessary that along with the application, there will be a certificate that the sponsoring agents, whether it is the Central Government or the State Governments or private industries, will employ them after they come back.

LIME-STONE DEPOSITS IN BORRA CAVES

*954. **Shri M. S. Gurupadaswamy:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether it is a fact that a preliminary investigation of the lime-stone deposits near Borra Caves was carried on recently;

(b) whether this investigation has been completed; and

(c) if so, with what results?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) and (b). Yes, Sir. In 1952-53.

(c) The investigation showed that a lenticular band of crystalline lime-stone upto 500 feet in thickness occurs in close association with Cale gneiss near Borra. The band is traceable from near Borra Cave to Jariguda in the South. The lime-stone is generally high in magnesia, but patches free from it are also found.

Shri M. S. Gurupadaswamy: May I know whether any decision has been taken by the Government to exploit this mine?

Shri K. D. Malaviya: We cannot give any information. It is for the State Government to say.

Shri M. S. Gurupadaswamy: May I know whether any consultation has been carried on between the State Government and the Government of India regarding this matter?

Shri K. D. Malaviya: I learn that there are some proposals for the utilisation of this lime for some soda ash factory in Andhra. That is a matter for the Commerce Minister to answer.

Shri M. S. Gurupadaswamy: May I know whether the Andhra Government have asked for any help, either technical or otherwise, from the Centre?

Shri K. D. Malaviya: I am not aware of it.

'BISPAT'

*955. **Shri Barman:** Will the Minister of **Finance** be pleased to state:

(a) the quantity of 'Bispat' (immature tobacco leaves torn out of the plant so that the remaining leaves may become fully developed) that was produced in Bengal this year before the present excise-duty was introduced;

(b) the quantity that was produced last year;

(c) whether it is a fact that due to the heavy duty imposed on 'Bispat', the growers have abandoned the practice of collecting and storing 'Bispat'; and

(d) if so, whether Government propose to enquire into the matter to find out a solution?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). Separate figures in respect of 'Bispat' tobacco are not available since if the grower-curers collect and destroy such leaves as being useless before the crop is harvested and fully cured, no account is kept of them; and if they

are cured and ultimately marketed, they would be accounted for along with other varieties of tobacco.

(c) and (d). Government have no information as to whether the practice of collecting 'Bispat' has been abandoned by the growers. However, as the Sabha is already aware, the problem of low grades of tobacco whether it is in respect of 'Bispat' or other tobacco is an all-India problem. As a short term, measure, Government have already granted exemption from excise duty to the extent of 25 per cent. on tobacco of 1952-53 and earlier seasons.

Shri Barman: In view of the fact that I have categorically stated that there are two kinds of tobacco, *i.e.* 'Bispat' and mature tobacco, will Government direct an inquiry to be made as to whether as a result of this high rate of duty, the collection of the 'Bispat' has been discontinued by the cultivators?

Shri A. C. Guha: According to our information, 'Bispat' is not to be called a category of tobacco. In West Bengal, two categories of tobacco are grown, *i.e.* 'Jatti' and 'Motihari'; and 'Bispat' is only the undeveloped leaves, sometimes collected and sometimes not collected.

I think I can agree with the hon. Member that the price they might get from this kind of leaves is not at all economic. We have tried to collect as much information as possible and particularly due to this flood situation, the Assistant Collector of Cooch-Behar has sent us a telegraphic communication that it is not possible to collect any information in the area. But whatever information is available with the Collector of Central Excise, Calcutta, shows that only about 6,000 lbs. might have been collected in the whole year 1951-52, and for other years, we have not got any information. Even if we calculate, this 6,000 lbs. is not a very big quantity; it is very insignificant as compared with about 18 million lbs. of tobacco in 1950-51 grown in West Bengal.

Shri Barman: Whatever might be the figures supplied by the Collector, in view of the fact that Government are admitting that this 'Bispat' does not bring in an economic price, may I know whether Government will consider the imposition of a lower rate of duty on this kind of tobacco?

Shri A. C. Guha: Whatever may be the quality he may put in respect of this kind of tobacco, we can only have low-grade and high-grade quality of tobacco, and particularly for the low-grade tobacco, whether it is to be used, in *biris* or not, that is the only classification on which the excise duty will vary. So, I do not think there is any purpose in instituting a particular inquiry into this matter. But after the flood is over, I can suggest that we may have a further inquiry from the Central Excise Department of Cooch-Behar, under which this region would come.

Shri N. B. Chowdhury: In view of the sort of development that has taken place, and also in view of the report that Government have received from the officers in these areas regarding the difficulties in survey this year, may I know whether Government propose to exempt this sort of tobacco, viz. 'Bispat' from duty for this year only?

Shri A. C. Guha: I think this question does not arise.

Mr. Speaker: In veiw of the reply that has already been given, yes.

Recruitment of Assistants

*956. **Shri Rishang Keishing:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that Government are contemplating to recruit about one hundred persons belonging to Scheduled Castes, Scheduled Tribes and other Backward Classes for the posts of Assistants in the Central Secretariat;

(b) if so, the manner in which these one hundred posts of Assistants will be distributed among the three communities referred to above; and

(c) by what time the recruitment will be made?

The Deputy Minister of Home Affairs (Shri Datar): (a) It has been decided to recruit 100 graduates belonging to Scheduled Castes and Scheduled Tribes for permanent posts of Assistants in the Central Secretariat. There is no reservation at present for other Backward Classes. It is not yet known what classes or groups would be regarded as Backward.

(b) 72 for Scheduled Castes candidates and 28 for Scheduled Tribes candidates, provided that if a sufficient number of suitable candidates is not available from one of the categories, the deficit will be made available to the other category.

(c) The Union Public Service Commission have already been requested to arrange for the selection of these Assistants through a test to be held for the purpose as soon as possible.

Shri Rishang Keishing: May I enquire what arrangements Government have made to see that the advertisement for these posts may reach even the remotest part of the hill areas, where there is no good communication, but there are qualified men?

Shri Datar: The Union Public Service Commission have a satisfactory system of advertising for the various posts, and they will follow the usual course.

Shri Rishang Keishing: Is it the intention of Government to have such special recruitment every year for all classes of service?

Shri Datar: No.

The Minister of Home Affairs and States (Dr. Katju): That decision has not yet been taken.

May I just add one sentence in regard to the previous question which my hon. friend put with respect to publicizing this particular recruitment? I shall see to it that the Union Public Service Commission get into touch with the Chief Commissioner of Manipur and other tribal areas, and that special efforts are made to publicize them through even the district authorities.

Shri Datar: I may like to add that this recruitment of one hundred assistants is only for this year, and it is not to be repeated every year, unless Government think otherwise.

Shri Nanadas: May I know the qualifications prescribed for the selection of these candidates?

Shri Datar: The qualifications are that they are to be graduates, and those who are from the open market..... (*Laughter*). Members need not laugh, 'Open market' is a technical expression. It means those who are not in service. Those who are not in service will have to be below thirty years, and those who are already in service can be up to thirty-three years.

Shri Jaipal Singh: In view of the fact that only twenty-eight have to be recruited from among the Scheduled Tribes, have Government taken into account any proportions to see that there is regional representation, so that the candidates do not come from one part of the country only?

Shri Datar: It is not possible for Government to take into account any regional proportions. We shall be very satisfied if we could get this full number, so far as the Scheduled Tribes are concerned.

Assistance to Artists

*957. **Shri S. V. L. Narasimham:** Will the Minister of **Education** be pleased to state:

(a) whether any grants-in-aid have been made so far during 1954-55 to aged musicians, actors, painters and other artists;

(b) the criteria on the basis of which they have been selected; and

(c) the number of persons who have been given aid?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Yes, Sir.

(b) Grants are made on the basis of the eminence of the artists in their respective fields and their indigent circumstances.

(c) Six.

Shri S. V. L. Narasimham: How many out of these six come from the State of Andhra?

Dr. M. M. Das: I can read out the names, but it is not mentioned here as to whether they come from Andhra, Madras or Bengal, etc.

Mr. Speaker: It is not necessary to read out.

नैपाल में भारतीय सैनिक

*९५८. **श्री विभूति मिश्र :** क्या **रक्षा** मंत्री यह बताने की कृपा करेंगे कि:

(क) जुलाई-अगस्त, १९५४ के बाद से नैपाल में स्थित कितने भारतीय सैनिकों की मृत्यु हुई है; और

(ख) वहां पर बाढ़ से कौन-कौन और लगभग कितने मूल्य का सामान बह गया है ?

The Minister of Defence Organization (Shri Tyagi): (a) One Junior Commissioned Officer was washed away.

(b) Owing to the rise in the level of water a survey of the area affected by floods has not been possible. Hence the non-availability of details.

श्री विभूति मिश्र : यह जो आदमी सरकार के फ्लड्स से मर गये हैं क्या उनके बालबच्चों की परवरिश के लिये सरकार समुचित प्रबन्ध कर रही है ?

श्री त्यागी : उसमें कोई नया प्रबन्ध करने का सवाल नहीं उठता क्योंकि यह जो जमादार उसमें बह गये हैं वह एक दरिया के किनारे उनकी ड्यूटी थी कि एक दम दरिया बढ गया और वह उसमें बह गये. वह जगह कोई खतरे की जगह नहीं समझी जाती थी ।

Shri Bhagwat Jha Azad: May I know if any damage has been caused due to floods to the Tribhuvan Rajpath where our military personnel are doing magnificent work?

Shri Tyagi: I have no information about it.

श्री विभूति मिश्र : क्या जो सरकार की क्षति हुई है उस की पूर्ति नेपाल सरकार करेगी ?

श्री त्यागी : जिन लोगों के मरने से क्षति पहुंची है उन के परिवारों को पेन्शन दी जायेगी ।

Profits of Foreign Firms

*959. **Shri Buchhikotaiah:** Will the Minister of **Finance** be pleased to state:

(a) the profits remitted abroad in 1954 so far by foreign firms and companies operating in India; and

(b) the name of the country to which the largest amount was thus transferred and the amount of such profits?

The **Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) During the period January to June, 1954, for which figures are available, the profits remitted abroad by foreign firms and Companies operating in India amounted to Rs. 9·10 crores.

(b) The largest amount *viz.* Rs. 7·82 crores was transferred to the United Kingdom.

Shri Buchhikotaiah: May I know what is the total amount of profits taken away in 1953?

Shri B. R. Bhagat: The total in 1953 was Rs. 16,71,40,000.

Shri V. P. Nayar: Are Government aware that apart from profits remitted as profits by these foreign firms, such firms, when they import supplies from abroad, over-invoice the price of the imported articles and take away a very large amount as hidden profits? Do Government have any machinery to check this loot?

Shri B. R. Bhagat: The usual check is exercised by the Customs and also the Reserve Bank of India.

Shri T. N. Singh *rose*—

Shri V. P. Nayar: That is not the point...

Mr. Speaker: Mr. T. N. Singh.

Shri T. N. Singh: May I know whether the Government are aware and keep a check, of hidden transfers of balances of these firms to their offices elsewhere, and also of the various systems of transfer, by over-invoicing, under-invoicing etc.

Shri B. R. Bhagat: As far as transfers of balances elsewhere are concerned, I do not know how a check can be exercised. But the Reserve Bank is quite alive to this and has kept a strict watch over it.

The Minister of Finance (Shri C. D. Deshmukh): I would like to say that there are no restrictions in the way of remittance of profits from the exchange point of view. So also, in regard to the transfer of capital now the movement is free. Therefore, there could be no question of evading any regulations. In respect of income-tax, the information that is implied in the question previous to that of the hon. Member may be of interest to the Department.

छावनी बोर्ड सम्मेलन

*९६१. **श्री भक्त दर्शन :** क्या रक्षा मंत्री २८ अप्रैल, १९५४ को पूछे गये तारांकित प्रश्न संख्या २०९७ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) क्या विभिन्न छावनियों से कुछ क्षेत्रों को अलग करने के प्रश्न और असैनिक क्षेत्रों की भूमि सम्बन्धी समस्याओं के बारे में कुछ अन्तिम निर्णय किये गये हैं; और

(ख) यदि हां, तो क्या उनकी एक प्रति पटल पर रखी जायेगी ?

The Deputy Minister of Defence (Sardar Majithia): (a) No final decision has yet been taken, except that in the case of Delhi Cantonment certain land has been excised. This land was privately owned and was included in the cantonment during the last war.

(b) Does not arise.

श्री भक्त दर्शन : मुझे पता लगा है कि इस सम्बन्ध में जो कान्फरेन्स हुई थी उस के सिलसिले में विभिन्न छावनी बोर्डों को एक आदेश पत्र भेजा गया है । क्या मैं जान सकता हूं कि उस के बारे में उत्तर आने की कोई तिथि निर्धारित की गई है कि वह कब तक जवाब भेज सकेंगे ?

Sardar Majithia: So far as the Cantonment Boards are concerned and the question of excision is concerned, I have personally visited three cantonments, and there I found that the people residing in that area were opposed to that area being excised. About the others, I am going through each cantonment and so as yet I am not in a position to say with regard to them.

श्री भक्त दर्शन : क्या यह बात सत्य है कि गवर्नमेन्ट ने यह निश्चय किया है कि नैनीताल, अल्मोड़ा और लंढौरा के जो बेकार कैन्टोनमेन्टस हैं उन को समाप्त कर दिया जाय और उन के बदले में और नई छावनियों की स्थापना की जाय ?

Sardar Majithia: That we have not decided as yet, because Ranikhet is being properly used. About Almora, some of the buildings are lying vacant and we are thinking how best to utilise them.

श्री भक्त दर्शन : मैं ने जो प्रश्न पूछा था उस के केवल एक अंश के बारे में मंत्री महोदय ने जवाब दिया है । प्रश्न का दूसरा अंश जो है वह यह है कि वहां जो भूमि सम्बन्धी नियम हैं उन में सुधार करने के बारे में भी क्या कान्फरेन्स में कोई विचार किया गया था और

किया गया था तो उस के बारे में कोई निर्णय किया गया है ?

Sardar Majithia: I have already answered that question sometime previously, that whatever decisions were taken, as a result of those, instructions have been issued to the Cantonment Boards liberalising their powers and now the Civil Area Committees are practically autonomous.

विद्यालय की पाठ्य पुस्तकें

*९६२. **श्री एम० एन० सिंह :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार को मालूम है कि राज्यों में भिन्न-भिन्न विद्यालयों में एक सी कक्षाओं की पाठ्य पुस्तकें भिन्न भिन्न हैं और प्रति वर्ष उनका परिवर्तन किया जाता है तथा इससे शिक्षा के प्रसार में बाधा पड़ती है; और

(ख) यदि हां, तो क्या सरकार इन भिन्नताओं और परिवर्तनों को रोकने और इस दिशा में सभी राज्यों के मार्ग दर्शन के लिये कोई नीति निर्धारित करेगी ?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 17]

Shri A. M. Thomas: It appears that as long ago as 1943, the recommendations of a Special Committee were circulated among the States. May I know whether any report has been called for from the States, whether the recommendations have been implemented and as to whether Government are aware that the defects pointed out still exist?

Dr. M. M. Das: No report has been called for from the States. I may submit that the State Governments are the competent authorities in this matter.

Shri S. N. Das: May I know which of the States have been found guilty of this action?

Dr. M. M. Das: This is a matter for the State Governments.

Chairs on *Yogic* Physical Culture

*964. **Babu Ramnarayan Singh:** Will the Minister of Education be pleased to refer to the reply given to Starred Question No. 1290 asked on the 22nd December, 1953 and state:

(a) whether Government have since considered the question of creating chairs on *yogic* physical culture in the Universities to promote *yogic* physical culture;

(b) if so, what are the decisions taken;

(c) whether the finalised report of the sub-committee set up by the Advisory Board of Physical Education has been examined; and

(d) if so, what are the findings of the committee?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). The present position regarding the employment of *Yogic* Physical Culturists in Universities is being ascertained from them. When full information is collected it will be placed for consideration at the next meeting of the Central Advisory Board of Physical Education and Recreation.

(c) and (d). It is being examined in the Ministry of Education and will be put up before the Central Advisory Board of Physical Education and Recreation for its final examination at its next meeting.

Babu Ramnarayan Singh: Is the Parliamentary Secretary aware that here in Delhi for the past six years there has been a *yoga ashram* with several branches in the towns and some even for the Members of this House, which are giving instruction on *yoga ashram* and if so, have the Government given any financial aid to

this institution by way of recognition and encouragement?

Dr. M. M. Das: I do not know whether any financial aid has been given to this particular institution mentioned by the hon. Member. But I know that during the last few years, more than Rs. 75,000 have been given as grant for research on *yoga* etc.

Babu Ramnarayan Singh: Is the Parliamentary Secretary aware that even a foreign country like Russia has introduced this system of *yoga ashram* in their educational institutions for the good of the children and if so, how is it that our Government are not helping the people to take full advantage of this system?

Mr. Speaker: The hon. Member is arguing. He need not be replied to.

Shri Bhagwat Jha Azad: Are the Government aware that the health teams from USA and USSR which visited this country have already implemented this system in their countries, and they are not doing anything at all here?

Dr. M. M. Das: Government are doing everything in their power, using every constitutional authority they have got. For the improvement of this system, they have given financial aid to institutions. I may inform the House that two of our Universities, the Banaras Hindu University and the Annamalai University, have appointed teachers who are giving instruction in this system of *yogic physical* culture.

Several hon. Members *rose*—

Mr. Speaker: I will go to the next question. One more question can be taken up.

राष्ट्रीय संग्रहालय

*९६५. **श्री आर० एस० तिवारी :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि:

(क) क्या राष्ट्रीय संग्रहालय के लिये कोई संचालक नियुक्त किया गया है; और

(ख) यदि नहीं, तो इसके क्या कारण हैं?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No, Sir.

(b) The post of Director is provided only in the second stage of development of the Museum, while the Museum is still in the first stage.

श्री आर० एस० तिवारी : क्या श्रीमान् को मालूम है कि संचालक न होने से संग्रहालय की उन्नति में बाधा पड़ रही है?

Dr. M. M. Das: Government are fully aware that there must be some officers to do the job properly.

Shri Meghnad Saha: May I know if the Museum can be developed without a director?

Mr. Speaker: The question hour is over.

WRITTEN ANSWERS TO QUESTIONS

Grant to Punjab University

*927. **Shri D. C. Sharma:** Will the Minister of **Education** be pleased to state how much grant has been given to the Punjab University in 1953-54 to develop research equipment, libraries, buildings and staff and for other schemes?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): A non-recurring grant of Rs. 1,50,000 was given during 1953-54 by the University Grants Commission for the development of post-graduate Studies in Science subjects.

'Gypsy Major' Engines

*929. **Shri H. N. Mukerjee:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that 'Gypsy Major' engines are still in use

in aircraft belonging to the Indian Air Force while in U.K., where they were manufactured, they are not in use; and

(b) whether it is a fact that the use of these engines involves uneconomic costs of maintenance and operation?

The Deputy Minister of Defence (Shri Satish Chandra): (a) These engines are in use both in India and the U.K.

(b) No, Sir.

काश्मीर में प्रवेश

*९३१. { सेठ गोविन्द दास :
श्री बादशाह गुप्त :

क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि काश्मीर में प्रवेश के लिये अनुज्ञा-पद्धति का कब तक अन्त होगा ?

The Minister of Defence Organization (Shri Tyagi): Entry into the J. & K. State is controlled in accordance with the regulations enforced by the State Government. They have, however, agreed to accept permits issued by the Government of India. It is difficult at this stage to forecast the date when the State Government is likely to withdraw these regulations.

N.C.C.

***941. Shrimati Tarkeshwari Sinha:** Will the Minister of **Defence** be pleased to state the estimated amount to be spent during 1954-55 on the expansion scheme of the National Cadet Corps?

The Deputy Minister of Defence (Shri Satish Chandra): About Rs. 94 lakhs inclusive of about Rs. 36 lakhs to be found by the States.

Geological Survey of Jammu and Kashmir

***942. Shri Nageshwar Prasad Sinha:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether the Geological Survey of India have started their activities in the State of Jammu and Kashmir; and

(b) if so, when and with what results?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement is laid on the Table of the House giving the particulars of the investigations proposed to be carried out by the Geological Survey of India in the State during the winter season 1954-55. [*See* Appendix VI, annexure No. 18]

Delegation of Pakistan Students

***943. Shri Madhao Reddi:** Will the Minister of **Education** be pleased to state:

(a) whether it is a fact that a cultural and students Delegation from Pakistan visited India some time in April, 1954;

(b) if so, the number of the delegates; and

(c) the names of the places they visited?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) 29.

(c) Agra, Ajmer, Calcutta, Delhi and Jaunpur, as far as Government are aware.

Special Assistance to Part 'B' States

***946. Pandit Munishwar Dutt Upadhyay:** Will the Minister of **States** be pleased to state the present position in regard to the utilisation of the grants made to part 'B' States in accordance with the recommendations of the Part 'B' States (Special Assistance) Enquiry Committee?

The Minister of Home Affairs and States (Dr. Katju): A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 19]

HISTORY OF FREEDOM MOVEMENT

*947. **Shri S. C. Samanta:** Will the Minister of **Education** be pleased to state what progress has been made in the collection of the material for the History of Freedom movement in the eastern region comprising West Bengal, Orissa and Assam?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Quite a large volume of materials has been collected and more is being collected. It is, however, not possible at this stage to give a detailed account.

HINDUSTAN AIRCRAFT LIMITED

*963. **Shri T. B. Vittal Rao:** Will the Minister of **Defence** be pleased to state:

(a) the number of railcoaches which have been built at Hindustan Aircraft Factory, Bangalore between the 1st April and the 31st August, 1954;

(b) whether any steps have since been taken to increase the capacity of the Coach-building Section of the factory; and

(c) if so, what are the steps so taken?

The Deputy Minister of Defence (Shri Satish Chandra): (a) 66.

(b) Yes, Sir.

(c) Additional buildings are being constructed to provide more working space and for the installation of additional manufacturing capacity. Better and up-to-date equipment is also being obtained to increase the efficiency and to reduce the cost of production.

TECHNICAL AID BY U.S.S.R.

*966. **Shri Mahodaya:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the U. S. S. R. also gives technical aid to the under-developed Countries under the auspices of the U. N. O. and extends facilities for technical training of students from such countries;

(b) if so, whether the terms offered by the U. S. S. R. are better than those offered by the United States of America; and

(c) the steps that Government have taken or propose to take to avail of these facilities?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir

(b) No, Sir.

(c) The U.N.T.A.A. have been informed that the Government of India would be prepared to accept Russian experts if they are considered suitable and qualified for the jobs for which they are required and have a good working knowledge of English. As regards sending tranieees to U.S.S.R., the UNTAA have been informed that the Government of India intend to send, in the first instance, an exploratory team of senior officers to assess in certain fields what scope there would be for sending Indian candidates for advanced training in U.S.S.R.

MUSEUM AT NAGARJUNAKONDA

*967. **Shri Raghuramaiah:** Will the Minister of **Education** be pleased to refer to the reply to starred question No. 880 asked on 10th March, 1954 and state whether any decision has since been taken regarding the shifting of the Museum at Nagarjunakonda in Andhra State?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): No, Sir

SCHOLARSHIPS

*968. **Shri D. C. Sharma:** Will the Minister of **Education** be pleased to state the total amount of scholarships granted by the Central Government to Scheduled Castes, Scheduled Tribes and other Backward Classes students of Punjab State for education from August 1947 till date?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): 1,068 scholarships involving an expenditure of Rs. 5,60,101 upto the year 1953-54

BHARAT ELECTRONICS INDUSTRY

*969. **Shri A. K. Gopalan:**
Shri V. P. Nayar:

Will the Minister of **Defence** be pleased to state:

(a) the expenditure incurred on the Bharat Electronic Industry in India upto 31st March, 1954;

(b) the progress of the work and when it is expected that the factory will start operation;

(c) the number of foreign experts who are working on it and their emoluments paid upto 31st March, 1954; and

(d) by what time the training schools and the research section will be ready and functioning?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Rs. 14 lakhs (approx).

(b) The Company was registered under the Indian Companies Act in April 1954. The construction of workshop buildings has commenced and necessary arrangements for the purchase of machinery required for the first phase of production have been made. Production is likely to commence by June 1956.

(c) No foreign technicians have yet been employed.

(d) The training school will be established by the end of 1954. The research section is likely to start functioning early in 1957.

FINANCIAL ISSUES BETWEEN INDIA AND PAKISTAN

*970. **Shri Dabhi:** Will the Minister of **Finance** be pleased to refer to the reply given to starred question No. 2492, asked on the 14th May, 1954 and state when he is likely to resume his negotiations with the Finance Minister of Pakistan on the financial issues outstanding between India and Pakistan?

The Minister of Finance (Shri C. D. Deshmukh): I hope to meet the Finance Minister of Pakistan this month in Washington and shall find out what the prospects of resuming the negotiations are.

RESEARCH IN TRAINING COLLEGES

*971. **Shri S. N. Das:** Will the Minister of **Education** be pleased to state:

(a) the special features of the programmes drawn up for encouraging training colleges to undertake research on specific problems;

(b) whether any research work of this nature has been started in any of the States;

(c) if so, where and what is the nature of research started; and

(d) the total amount that the Central Government have allotted for the purpose?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (d). A statement is laid on the Table of the Sabha. [*See* Appendix VI, annexure No. 20]

PROSPECTING OF PETROLEUM

*972. **Shri Jhulan Sinha:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state what progress has been made so far in the matter of prospecting of petroleum by the Standard Vacuum Oil Company in Bengal in pursuance of the agreement with the Government of India?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): It is reported that a small party of technicians has been sent to undertake a rapid reconnaissance tour in the areas lying on both the banks of the river Hooghly.

CENTRAL FORENSIC LABORATORY

*973. **Ch. Raghubir Singh:** Will the Minister of **Home Affairs** be pleased to refer to the reply to starred question No. 1912 asked on the 20th April, 1954 and state:

(a) whether a decision has since been taken to establish a Central Forensic Laboratory;

(b) if so, where it will be located; and

(c) what would be the approximate expenditure thereon?

The Deputy Minister of Home Affairs (Shri Datar): (a) Yes.

(b) A decision about the location of the laboratory has not yet been taken.

(c) The question of staff has not yet been finalised and hence the cost cannot be indicated.

SCHOOL OF AFRICAN STUDIES

*974. { **Shri Krishnacharya Joshi:** **Shri Radha Raman:**

Will the Minister of **Education** be pleased to state:

(a) whether the Delhi University has decided to start a school of African studies in order to enable Indians to study African History and culture; and

(b) if so, when the school will come into existence?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) As early as possible.

REFUSAL OF LICENCES TO BANKS

*975. **Shri S. C. Samanta:** Will the Minister of **Finance** be pleased to state:

(a) the number of banks that have been refused licence since 1949, and the reasons therefor; and

(b) of these, the number whose licenses were previously withdrawn?

The Deputy Minister of Finance (Shri A. C. Guha): Upto the end of August, 1954, the number of such banks is 13. Out of these 13 banks, the Reserve Bank of India was not satisfied with regard to condition (c) in respect of one bank and for the remaining 12 banks either or both of the conditions (a) and (b) referred to in sub-section (3) of section 22 of the Banking Companies Act were not fulfilled.

In addition, the licence granted to one banking company was subsequently cancelled as its business was taken over by another banking company.

(b) This part of the question is not clear. Prior to the enactment of the Banking Companies Act, system of licensing of banks by the Reserve Bank was not in vogue. If the intention is to know the number of banks which were given licences on their subsequent improvement after they had been once refused the licence, such number is nil. Out of 34 banks which have been granted licence so far, 10 banks were granted licences after steps had been taken by them to rectify the procedural and minor irregularities pointed out to them by the Reserve Bank of India after inspection.

ANDAMANESE

*976. **Shri Bhagwat Jha Azad:** Will the Minister of **Home Affairs** be pleased to state:

(a) the reasons for the fast decrease in the population of original Andamanese; and

(b) the measures that have been taken to save this race from complete extinction?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). In 1858 when the Penal Settlement was established at Port Blair, the Andamanese showed themselves as extremely hostile. They made raids

on settled areas. The armed encounters which followed brought about a decline in the strength of these aborigines. An attempt was later made to civilise them. This affected their natural mode of living and they acquired evil habits. Disease, high death rate among adults and low birth rate resulted in the dwindling of the tribe. The survivors are now allowed to live their own natural life. This policy has been adopted in deference to the views of Anthropologists, who are inclined to think that if these primitive people are to be preserved they should be left to their own customs, economy and environments. A substation of the Department of Anthropology has been set up at Port Blair to study and recommend measures for tackling the various problems relating to the aborigines in the Islands.

DUPLICATE CERTIFICATES

*977. **Shri Gidwani:** Will the Minister of **Finance** be pleased to state:

(a) whether Government have taken any steps to issue duplicate certificates to those persons, whose papers are left in lockers of different Banks in West Pakistan;

(b) whether it is a fact that the Reserve Bank has refused either to issue the duplicate certificates or to pay back the money of prize bonds which were left there although the persons concerned are ready to sign the necessary indemnity bond; and

(c) the steps proposed to be taken by Government in the matter?

The Minister of Finance (Shri C. D. Deshmukh): (a) No Sir.

(b) As the prize bonds are bearer bonds and mere possession thereof will entitle any holder to claim the value from Government, they do not consider that an indemnity bond from the claimant is sufficient to enable the Reserve Bank to issue duplicates.

(c) Government have been negotiating with the Pakistan Government for the transfer of lockers and safe deposits from that country.

बाल-साहित्य

*९७८. श्री एम० एल० द्विवेदी : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या बाल-साहित्य के सृजन को प्रोत्साहित करने के सम्बन्ध में राज्य सरकारों से प्राप्त सुझावों के आधार पर कोई योजना बनायी गयी है; और

(ख) यदि हां, तो उस योजना का ब्योरा क्या है ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement is laid on the Table of the Sabha. [*See* Appendix VI, annexure No. 21.]

ACQUISITION OF LANDIN WEST BENGAL

*979. **Shri H. N. Mukerjee:** Will the Minister of **Defence** be pleased to state:

(a) whether any representations have been received from the agriculturists whose lands are being taken over in several villages near Tarakeshwar (West Bengal) by Government; and

(b) if so, what steps Government propose to take in the matter to help the agriculturists whose livelihood is affected?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes.

(b) The owners of the land will be paid recurring compensation for the period the lands remain under requisition and thereafter when the lands are acquired, they will be paid the cost of acquisition admissible under Requisitioning and Acquisition of Immovable Property Act, 1952.

TERRITORIAL ARMY

*981. **Shri D. C. Sharma:** Will the Minister of **Defence** be pleased to state the response received from the public in the Punjab to the Territorial Army?

The Minister of Defence Organization (Shri Tyagi): The response received from the public in the Punjab to the Territorial Army has on the whole been satisfactory. The present strength of Provincial units is 94 per cent. and that of urban units 71 per cent. of the sanctioned strength.

SALARY OF PRIMARY SCHOOL TEACHERS

*982. **Shri A. K. Gopalan:**
Shri V. P. Nayar:
Shri Punnoose:

Will the Minister of **Education** be pleased to state:

(a) whether Government have received a memorandum signed by over 7,000 Primary School teachers of Travancore Cochin State regarding the necessity for equalisation of salary of primary school teachers in India;

(b) whether the memorandum contained a request to the Government of India to subsidise States in which the primary school teachers received a comparatively low scale of pay; and

(c) if so, what action has been taken on this request?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) Yes.

(c) The question of the improvement of the scales of pay of such teachers, is the concern of the State Governments, which are themselves conscious of the importance of the matter and their attention to its urgency has been invited by the Central Government from time to time.

VISVA-BHARATI

*983. **Shri S. N. Das:** Will the Minister of **Education** be pleased to state:

(a) whether the attention of Government has been drawn to an editorial in the "Vigil" dated the 17th April, 1954 reproduced *in extenso* on pages 338-339 in the "Modern Review" of May 1954 regarding the affairs of the Visva-Bharati University;

(b) if so, whether any clarification on the points raised in the editorial has been made so far; and

(c) whether the case for an inquiry is under the consideration of Government?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) and (c). No.

ARMED FORCES RE-ORGANISATION COMMITTEE

*984. **Ch. Raghubir Singh:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that all the recommendations of the Armed Forces Reorganisation Committee have not been implemented so far;

(b) if so, what are the reasons therefor; and

(c) what savings have been effected so far?

The Minister of Defence Organization (Shri Tyagi): (a) Yes.

(b) The reasons for not accepting some of the recommendations of the Committee are either that they would involve an undue risk or that they would lead to serious administrative difficulties in the present conditions. The position is, however, under constant review and if later it is found possible to implement any of these recommendations, this will be done.

(c) It is difficult to make an estimate, but the saving is expected to be of the order of Rs. 2 crores per annum.

EXCHANGE OF STUDENTS AND TEACHERS

*985. **Shri Jhulan Sinha:** Will the Minister of **Education** be pleased to state whether any exchange of teachers and students has taken place between India and any of the foreign countries during the last five years?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Yes, Sir.

INDIAN NAVY SHIPS

*986. **Shri Bhagwat Jha Azad:** Will the Minister of **Defence** be pleased to state the number of ships in the Indian Navy that have been fitted with radar equipment?

The Deputy Minister of Defence (Shri Satish Chandra): All ships of Indian Navy except a couple of them are fitted with radar equipment, and arrangements are afoot to equip the remaining ones also with radar.

SOLAR COOKERS

*783. **Shri S. C. Singhal:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) how many Solar Cookers have been manufactured and sold during 1954, so far; and

(b) whether there is any definite basis for leasing out of processes to Industrial firms for production on commercial scale?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix VI, annexure No. 22.]

श्रीनगर सम्मेलन

*७९०. **डा० सत्यवादी :** क्या प्राकृतिक संसाधन तथा वैज्ञानिक गवेषणा मंत्री यह बताने की कृपा करेंगे कि :

(क) जून, १९५४ में श्रीनगर में उन के सभापतित्व में हुए केन्द्रीय तथा राज्य सरकारों के प्रतिनिधियों के सम्मेलन में केन्द्रीय सरकार का कितना व्यय हुआ ; और

(ख) सम्मेलन में किन-किन विषयों पर विचार किया गया और उन पर क्या क्या विनिश्चय किये गये ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) The total expenditure incurred was Rs. 5632/8/-. The Conference was actually presided over by the Deputy Minister.

(b) A statement giving the recommendations made at the conference is laid on the Table of the House. [*See* Appendix VI, annexure No. 23.] Government's decisions on them will soon be taken.

CO-ORDINATION OF FUNDAMENTAL RESEARCH WORK

*814. **Shri K. C. Sodhia:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether there is any scheme for the co-ordination of fundamental research works for which grants are given by the Central Government; and

(b) if so, whether Government propose to place it on the Table of the House?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix VI, annexure No. 24.]

FOREIGNERS IN GEOLOGICAL SURVEY

*815. **Shri H. N. Mukerjee:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of foreigners, if any, in the Geological Survey at present; and

(b) their qualifications?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). Nil.

MILITARY DEPOTS

463. { **Shri V. P. Nayar:** / **Dr. Rama Rao:**

Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that permanent fencing with concrete poles has been erected in the following Depots at Dehu—

(i) C.O.D.

(ii) E.S.D.

(iii) Vehicle Depot.

(iv) D.O.D.

(v) M.A. Sub-Depot;

(b) the total cost of this fencing; and

(c) whether it is a fact that this fencing was erected before a decision was taken as to whether these Depots have to be made permanent?

The Deputy Minister of Defence (Shri Satish Chandra): (a) and (b). Only temporary fencing has been provided in all the five depots at a total cost of Rs. 6,87,000/-.

(c) The fencing is also not permanent.

PRE-AUDIT OF M. E. S. WORKS

464. Shri V. P. Nayar: Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that the expenditure incurred on the Military Engineering Service work is not generally subjected to pre-audit;

(b) if so, the reasons therefor;

(c) whether Government have considered the desirability of introducing pre-audit for Military Engineering Service works; and

(d) if so, what is their decision?

The Minister of Defence Organization (Shri Tyagi): (a) No. Generally, payments are made by the Military Engineer Service after (i) pre-check by the Unit Accountants attached to Garrison Engineers, or (ii) pre-audit by Controllers of Defence Accounts. There are, however, two exceptions to this rule, namely:—

(1) Outstation superintendents may pay Muster Rolls and Temporary Work Charge Establishment Bills (Industrial and non-Industrial) without check before payment; such payments, however, being restricted to the limits of their imprest, which is normally Rs. 500/-.

(2) Outstation superintendents may also pay petty bills upto Rs. 200/-, if authorised by the Garrison Engineers.

(b) to (d). Do not arise.

EXCISE DUTY ON TOBACCO (PURNEA)

465. Shri M. Islamuddin: Will the Minister of **Finance** be pleased to state:

(a) the amount of Excise Duty realised on tobacco from the District of Purnea during the year 1953-54; and

(b) the expenditure incurred on the excise establishments of the District for the said year?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The information is being collected and will be laid on the Table of the House.

(b) Accurate district-wise break-up is not available as proportionate distribution of the entire supervisory staff is not possible.

UNESCO LITERATURE

466. Shri D. C. Sharma: Will the Minister of **Education** be pleased to state the total value (in rupees) of the books and journals supplied to India by the UNESCO during 1953-54?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Rs. 26,371-7-0 under the Technical Assistance Programme of Unesco. Books and Journals published by Unesco are also received for free distribution

in the country. It is not possible to ascertain their exact value.

भारतीय प्रशासन सेवा (आई० ए० एस०) परीक्षा

४६७. **सेठ गोविन्द दास :** क्या गृह-कार्य मंत्री यह बताने की कृपा करेंगे कि १९५३ में हुई भारतीय प्रशासन सेवा (आई० ए० एस०), भारतीय विदेश सेवा (आई० एफ० एस०) और भारतीय पुलिस सेवा (आई० पी० एस०) परीक्षाओं में, जिन के परीक्षाफल १९५४ में घोषित किये गये थे, प्रति एक लाख जनसंख्या के अनुपात से किस राज्य के निवासियों में से सर्वाधिक एवं न्यूनतम अभ्यर्थी संघीय लोक सेवा आयोग द्वारा सफल घोषित किये गये हैं ?

The Minister of Home Affairs and States (Dr. Katju): A statement giving the requisite information is laid on the Table of the House. [*See* Appendix VI, annexure No. 25.]

Another statement showing the number of candidates declared successful for the Indian Foreign Service, Indian Administrative Service and Indian Police Service from the different States is also placed on the Table of the House. [*See* Appendix VI, annexure No. 25.]

Hyderabad Money in England Banks

468. Shri Krishnacharya Joshi: Will the Minister of **States** be pleased to refer to starred question No. 1025 answered on the 15th March 1954, and state:

(a) whether execution proceedings have started in the decree passed by the Court of England against Shri Moin Nawaj Jung who had credited Hyderabad money in Barclays Bank Ltd., London; and

(b) the total amount of money spent by the Government of India in this case?

The Minister of Home Affairs and States (Dr. Katju): (a) The proceedings have been completed and the money lying in the Barclays Bank Limited., London, has been received by the High Commissioner for India in London, on behalf of the Hyderabad Government.

(b) No expenditure was incurred by the Government of India in this case.

Evaluation of Property

469. Th. Lakshman Singh Charak: Will the Minister of **Finance** be pleased to state:

(a) how much property has been evaluated (State-wise) by the valuers under the Estate Duty Act, 1953, since the Act came into force; and

(b) the number of valuers appointed so far, State-wise?

The Deputy Minister of Finance (Shri M. C. Shah): (a) No property has so far been evaluated by the Valuers recently appointed under the Act.

(b) So far 453 valuers have been appointed for valuation of various kinds of properties. A statement showing the distribution State-wise is placed on the Table of the House. [*See* Appendix VI, annexure No. 26.]

Graduates and Post-Graduates

470. Shri S. C. Singhal: Will the Minister of **Education** be pleased to state:

(a) whether Government keep any statistical figures of graduates and post-graduates in Arts, Science, Commerce and Law, who came out of the different Indian Universities;

(b) if so, do Government propose to lay on the Table of the House a statement giving the figures for the last three years; and

(c) what is the number of students who have been awarded degrees and diplomas in technical subjects (Professional Subjects) during the last three years?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes.

(b) and (c). Two statements giving the required information for the years 1951, 1952 and 1953 are placed on the Table of the House. [*See* Appendix VI, annexure No. 27.]

NATIONAL RESEARCH DEVELOPMENT CORPORATION

471. Shri S. C. Singhal: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) what have been the recurring and non-recurring expenses on the National Research Development Corporation since its inception;

(b) how many researches and inventions it has developed so far for commercial use; and

(c) how many organisations and private individuals have availed of the services of the Corporation?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Recurring up to 31st August, 1954: Rs. 42,979/-.

Non-recurring: Nil.

(b) Arrangements for development of 12 processes have been completed with commerical firms and licence agreements are under issue.

(c) 28.

RURAL BANKING ENQUIRY COMMITTEE

472. Ch. Raghubir Singh: Will the Minister of **Finance** be pleased to state:

(a) whether Government have accepted the recommendations of the Rural Banking Enquiry Committee; and

(b) if so, how many branches of the Imperial Bank were opened in U.P. during the year 1953-54 and where?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). In pursuance of the recommendations made by the Rural Banking Enquiry Committee in this regard, the Imperial Bank of India have opened 34 branches during the period July 1951 to June 1953 out of which 10 are in U.P. For the next three year period, Imperial Bank of India have prepared a list for opening 80 new branches of which 11 are in U.P. Out of these 11 places, branches of the Imperial Bank have already been opened at the following three centres during the year 1953-54 (1st July 1953 to 30th June 1954):—

1. Mirzapur.
2. Roorkee.
3. Bijnor.

L . .O BIHAR

473. Shri Nageshwar Prasad Sinha: Will the Minister of **Finance** be pleased to state the amount that Government have agreed to give to the Bihar State by way of loan and grant for the development of roads?

The Minister of Finance (Shri C. D. Deshmukh): A statement giving the necessary information is laid on the Table. [*See* Appendix VI, annexure No. 28.]

अनुसूचि जातियों का कल्याण

४७४. **श्री नवल प्रभाकर :** क्या गृह-कार्य मंत्री यह बताने की कृपा करेंगे :

(क) दिल्ली राज्य की अनुसूचित जातियों के कल्याण के लिये पंचवर्षीय योजना के अन्तर्गत बनायी गयी योजनाओं का ब्योरा क्या है; और

(ख) इन में से प्रत्येक पर क्रमश: केन्द्रीय एवं दिल्ली राज्य सरकार द्वारा कितनी राशि दी जाएगी

The Deputy Minister of Home Affairs (Shri Datar): (a) There is only one scheme under the State Plan for promotion of Education among Scheduled Castes, known as "the award of scholarships/stipends to Scheduled Caste students". The awards are made to all the deserving students of Secondary Schools under

rules by the Scheduled Caste Scholarship/Stipends Board, Delhi State.

The schemes sanctioned by the Central Government for the Removal of Untouchability during the year 1953-54 are:—

1. Construction of houses.
2. Construction of wells and repairs to wells.
3. Non-recurring grant for Welfare Centres, and
4. Propaganda.

The schemes for the current financial year (1954-55) are under consideration.

(b)

Year	Amount sanctioned or proposed to be sanctioned by Centre.	Amount spent by the Delhi State Government.
1	2	3
	Rs.	Rs.
1951-52	..	60,644
1952-53	..	83,523
1953-54	77,500	92,540
1954-55	1,00,000 (Ceiling fixed)	1,40,000 (Expected to be spent)

PUBLIC JOINT STOCK COMPANIES

475. Pandit Munishwar Datt Upadhyay: Will the Minister of **Finance** be pleased to state:

(a) the number of Public Joint Stock companies at present in India and their total paid up capital;

(b) how many of such companies have managing agents;

(c) what is the total amount of remuneration drawn by the managing agents during the last three years; and

(d) what is the maximum number of companies managed by a managing agent?

The Deputy Minister of Finance (Shri M. C. Shah): (a) There were 12,055 public companies on 31st March, 1953 with total paid up capital of Rs. 628 crores.

(b) to (d). The information asked for is not readily available, and to collect it in the form in which it is asked will entail expenditure of time and energy which will be hardly justified by the results to be obtained. However, information which could be collected in regard to 1,795 companies, both private and public, including most of the important companies managed by managing agents, has been furnished in the statement which is laid on the Table. [*See* Appendix VI, annexure No. 29.]

FACILITIES FOR STUDIES ABROAD

476. Shri Bahadur Singh: Will the Minister of **Education** be pleased to state:

(a) the number of cases in which Government forwarded to Indian Missions abroad applications from private students for securing permission for study or training during 1954; and

(b) the countries which offered facilities to such students?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) 170.

(b) U.K., U.S.A., Australia, Sweden and Canada.

INDO-IRAQI CULTURAL AGREEMENT

477. Shri D. C. Sharma: Will the Minister of **Education** be pleased to state:

(a) whether an Indo-Iraqi Cultural Agreement has been signed recently; and

(b) if so, what are the terms of the Agreement?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, Sir.

(b) A copy of the terms of the Agreement is laid on the Table of the House. [*See* Appendix VI, annexure No. 30.]

TOWN HALL (TRIPURA)

478. Shri Biren Dutt: Will the Minister of States be pleased to state:

(a) whether any Town Hall is proposed to be built in Agartala, (Tripura);

(b) if so, the estimated cost of construction;

(c) who will finance it; and

(d) how much time it will take to complete its construction?

The Minister of Home Affairs and States (Dr. Katju): (a) to (c). It is understood that some leading citizens of Agartala are organising collection of funds from the public for the purpose of building a town hall in Agartala at a cost of about a lakh of rupees.

(d) Does not arise as it is not a work to be executed by Government.

राष्ट्रीय नमूना सर्वेक्षण

४७९. **डा० सत्यवादी :** क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) राष्ट्रीय नमूना सर्वेक्षण का उद्देश्य और व्याप्ति क्या है;

(ख) इस सर्वेक्षण में प्रत्येक राज्य के कितने गांव शामिल होंगे;

(ग) पंजाब, पैप्सू और हिमाचल प्रदेश के उन गांवों के नाम क्या हैं जो इस योजना के अन्तर्गत आ चुके हैं या आ जायेंगे; और

(घ) इस योजना के वर्तमान क्रम में कब तक कार्यारंभ हो जायेगा और अगले क्रम में क्या कार्य होगा ?

The Minister of Finance (Shri C. D. Deshmukh): (a) The National Sample Survey is intended to function as:

1. the Central focal agency for collecting and independent checking of data (in the diffused sphere which are amenable to large scale sampling and which are) required for purposes of Central planning and of national income estimation;

2. the organization for estimating the total food supply for the country as a whole and for assessing the results of the Grow More Food efforts; and

3. the basic frame for the organisation of special and *ad hoc* enquiries in respect of health, labour, education, transport, industry, rural credit etc. (in collaboration and with the appropriate Ministries or other agencies).

(b) This depends on the purpose and scope of each survey and is not a constant figure.

(c) A list of the villages in Punjab, PEPSU and Himachal Pradesh in which enquiries have been made during the various surveys is appended. [*See* Appendix VI, annexure No. 31.]

(d) Operations on the current round began in August, 1954. The date of the commencement of the next round can be decided only after the completion of the present one.

CRIMINAL CASES REGISTERED IN TRIPURA

480. Shri Biren Dutt: Will the Minister of States be pleased to state:

(a) the number of criminal cases registered by the different police stations of Tripura so far during 1954;

(b) the main feature of such cases;

(c) the number of persons arrested in connection with these cases; and

(d) the preventive measures that are proposed to be taken to check recurrence of such criminal cases?

The Minister of Home Affairs and States (Dr. Katju): (a) The number of criminal cases registered in the State during April to July 1954 is 439;

(b) These are mainly cases of crime against property;

(c) 390 (April to July 1954);

(d) Night patrols by the thana staff have been intensified and dacoity patrol camps have been opened in the effected areas. Village resistance Parties have been formed in many villages to render assistance to the police in the matter of prevention of crime. Known and suspected criminals are kept under surveillance.

NATIONAL THEATRE (TRIPURA)

481. Shri Biren Dutt: Will the Minister of **Education** be pleased to state:

(a) whether any organisation of National Theatre and Art of Tripura has represented their case for help; and

(b) if so, what steps are proposed to be taken in the matter?

The Minister of Education ..and Natural Resources and Scientific Research (Maulana Azad): (a) No representation has been received in the Ministry of Education.

(b) Does not arise.

SUB-SOIL GAS

482. Shri Ajit Singh: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether it is a fact that sub-soil gas has been discovered in a village near Tiruppaliyur in South India;

(b) if so, what are the details thereof; and

(c) the action that has been taken by Government in the matter?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (c). The Geological Survey of India was informed that a gas (presumably marsh gas) was noticed while digging a tube-well at Nathaveli village, near Tiruppaliyur in South Arcot district, Madras, at a depth of about 58 feet below ground level. No gas was, however, found to come out of the bore-hole by the officer of the Geological Survey of India, who visited the area.

DEFENCE WORKS

483. Shri K. C. Sodhia: Will the Minister of **Defence** be pleased to state:

(a) the total amount of advances paid to former Indian States for execution of Defence Works from the 15th August, 1947 upto the date of integration of each State and the years in which they were made;

(b) the amount of outstanding balance against each Parts 'A' and 'B' States now; and

(c) the arrangement that is in force at present for its realisation?

The Deputy Minister of Defence (Sardar Majithia): (a) to (c). The information is not readily available and is being collected.

ANGLO-AMERICAN CAPITAL

484. Shri K. C. Sodhia: Will the Minister of **Finance** be pleased to state:

(a) whether the figures of Anglo-American Capital in Indian Industries given on page 621 of the Journal of Industry and Trade for May 1954 represent the latest figures available;

(b) if so, what are the means for Government to know whether that capital has been increasing or decreasing since 1948 and to what extent; and

(c) when Government propose to move in the matter and what agency they contemplate to set up for the purpose?

The Minister of Finance (Shri C. D. Deshmukh): (a) Yes, Sir.

(b) and (c). The Reserve Bank is engaged in conducting a census of foreign investments in India. When this census is completed, it will give the position upto the end of December, 1953. Government will then

know whether foreign capital has been increasing or decreasing since 1948.

GEOLOGICAL SURVEY

485. Shri Viswanatha Reddy: Will the Minister of **Natural Resources and Scientific Research** be pleased to state the results obtained as a result of the special geological survey, if any, conducted since 1951, in the scarcity areas of Andhra State in order to determine the sub soil resources of the area?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): A statement giving the information available is laid on the Table of the House. [*See* Appendix VI, annexure No. 32.]

SCHEDULED CASTES SCHOLARSHIPS

487. Shri N. A. Borkar: Will the Minister of **Education** be pleased to state the total amount of scholarships granted to Scheduled Castes, Scheduled Tribes and other Backward Classes students in Madhya Pradesh under the various schemes during the years 1952-53 and 1953-54?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): In so far the Ministry of Education is concerned, 1,681 scholarships of the total amount of Rs. 8,15,228 were awarded to Scheduled Castes, Scheduled Tribes and Other Backward Classes students in Madhya Pradesh during 1952-53 and 1953-54. Information from other Ministries is awaited and if any scholarships are awarded by them during these years to Scheduled Castes, Scheduled Tribes and other Backward Classes students of Madhya Pradesh, necessary information will be laid on the Table of the House.

राष्ट्रीय संग्रहालय

४८८. **श्री आर० एस० तिवारी :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) राष्ट्रीय संग्रहालय, दिल्ली के लिये अब तक संस्कृत और पाली के कितने ग्रन्थ और कितने चित्र खरीदे गये हैं;

(ख) इन को कहां से खरीदा गया है; और

(ग) इन को प्राप्त करने में अब तक कितना व्यय हुआ है ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (c). A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 33.]

LOK SABHA

DEBATES

(Part II— Proceedings other than Questions and Answers)

VOLUME VII, 1954

(13th to 30th September, 1954)

Seventh Session
1954

LOK SABHA SECRETARIAT

NEW DELHI

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LOK SABHA

Wednesday, 15th September, 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

12 NOON

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OPINION ON INDIAN ARMS (AMENDMENT) BILL

Shri U. C. Patnaik (Ghumsur): I beg to lay on the Table a copy of Paper No. II containing opinions on the Indian Arms (Amendment) Bill, 1954, which was circulated for the purpose of eliciting opinion thereon by the 31st August, 1954.

INDIAN ADMINISTRATIVE SERVICE (PAY) RULES ETC.

The Deputy Minister of Home Affairs (Shri Datar): I beg to lay on the Table a copy of each of the following Rules, under sub-section (2) of section 3 of the All India Services Act, 1951:

(1) The Indian Administrative Service (Pay) Rules, 1954. [*Placed in Library. See* No. S—331/54.]

(2) The Indian Police Service (Pay) Rules, 1954. [*Placed in Library. See* No. S—332/54]

(3) The All India Services (Travelling Allowances) Rules, 1954. [*Placed in Library. See* No. S—333/54]

(4) The All India Services (Medical Attendance) Rules, 1954. [*Placed in Library. See* No. S—334/54.]

(5) The All India Services (Compensatory Allowance) Rules, 1954. [*Placed in Library. See* No. S—335/54.]

(6) The Indian Police Service (Uniform) Rules, 1954. [*Placed in Library. See* No. S—336/54]

COMMITTEE ON ABSENCE OF MEMBERS

PRESENTATION OF FOURTH REPORT

Shri Altekar (North Satara): I beg to present the Fourth Report of the Committee on the Absence of Members from Sittings of the House.

ELECTION TO COMMITTEE

COIR BOARD

Mr. Speaker: I have to inform the House that up to the time fixed for receiving nominations for the Coir Board, one nomination was received. As there is only one candidate for the vacancy, I declare Shri K. T. Achuthan to be duly elected to the Board.

CHANDERNAGORE (MERGER) BILL

The Deputy Minister of External Affairs (Shri Anil K. Chanda): I beg to move for leave to introduce a Bill to provide for the merger of Chandernagore into the State of West Bengal and for matters connected therewith.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the merger of Chandernagore into the State of West Bengal and for matters connected therewith."

The motion was adopted

Shri Anil K. Chanda: I introduce* the Bill.

SPECIAL MARRIAGE BILL—*Contd.*

Clauses 22 to 26

Mr. Speaker: The House will now proceed with the further consideration of the Bill to provide a special form of marriage in certain cases, for the registration of such and certain other marriages and for divorce. As the House is aware, two hours have been allotted for the disposal of this group of clauses—clauses 22 to 26, out of which 17 minutes have already been availed of yesterday and 1 hour and 43 minutes will be available today.

As already intimated by Members, the following amendments to clauses 22 to 26 will be treated as moved subject to their being otherwise admissible:—

Clause 22: 322.

Clause 23: 139, 140, 141, 380, 381, 382, 434.

The Minister of Law and Minority Affairs (Shri Biswas): I should like to have the later numbers under clause 23.

Mr. Speaker: They will be passed on to him.

Clause 24: 198, 509, 383, 384.

Clause 25: 11, 385, 435.

Clause 26: 325.

After these clauses have been disposed of, the House will take up the next group of clauses, *viz.*, Clause 27, New Clause 27A and Clause 33 at about 1-45 P. M.

Shrimati Jayashri (Bombay—Suburban): I have an amendment to clause 23; will that be taken later on?

Shrimati Renu Chakravartty (Basirhat): If we finish dicussion of clauses 22 to 26 at 1-45 P.M., then voting will fall during the recess period. So, I would like to know definitely at what time voting will take place.

Mr. Speaker: Whenever it is convenient.

Shrimati Renu Chakravartty: There must be a definite time; either at the end of the day or at a time decided upon by the House.

Mr. Speaker: I will put it at the conclusion of the debate.

Shrimati Renu Chakravartty: That is at 5 P.M., because at 5 P.M. there is another discussion.

Shri M. A. Ayyangar (Tirupati): So far as these clauses are concerned, the time allotted is—or rather the balance of time is—one hour and forty three minutes. At 1-45 P.M. discussion on these clauses will close. What is the diffculty in putting the amendments to the House?

Mr. Speaker: The hon. Deputy-Speaker was absent when we decided that as the House should continue to sit from 11 to 5 continuously, there should be no voting during the recess period, that is from 1 to 2-30 P.M. I was only considering as to when voting should take place in respect of these amendments,—at the con-

*Introduced with the recommendation of the President.

clusion of the next lot of amendments or at 5 o'clock. In order not to keep the matter in suspense, I said, at 5 o'clock. But, if the House so desires it can go to voting at the conclusion of the debate on the next lot of amendments so that both the lots would be voted upon together.

Shrimati Renu Chakravartty: I beg to move:

In page 7, for clause 22, substitute:

"22. *Desertion*—When either the husband or the wife has without reasonable excuse, withdrawn from the society of the other, for a period of two years, the aggrieved party may apply to the district court for judicial separation."

Dr. Rama Rao (Kakinada): I beg to move:

In page 7, omit lines 34 and 35.

Shrimati Renu Chakravartty: I beg to move:

(i) In page 7, for lines 34 and 35, substitute:

"(b) on the ground that one party refuses to live with the other party and to carry out the obligations of marriage."

(ii) In page 7, after line 35, insert:

"(c) on the ground that one of the parties has been suffering from leprosy or from venereal disease in a communicable form."

Shri Tek Chand (Ambala-Simla): I beg to move:

(i) In page 7, lines 32 and 33, omit "on which a petition for divorce might have been presented."

(ii) In page 7, line 38, for "on the application by petition" substitute "on the written application".

(iii) In page 7, line 40, for "petition" substitute "application".

Shri M. L. Agrawal (Pilibhit Distt. *cum* Bareilly Distt.—East): I beg to move:

In page 7, for lines 29 to 35 substitute:

"23. *Judicial separation.*—(1) A petition for judicial separation may be presented to the district court either by the husband or the wife on any of the grounds specified in section 27 [other than the grounds specified in clauses (i) and (j) thereof] on which a petition for divorce might have been presented."

Dr. Jaisoorya (Medak): I beg to move:

In page 8, line 1, for "impotent" substitute:

"in the case of a male, impotent and in the case of a female frigid".

Shri R. D. Misra (Bulandshahr Distt.): I beg to move:

In page 7, line 43, omit "and Divorce".

Shri Tek Chand: I beg to move:

(i) In page 7, lines 47 and 48, for "(c) and (d)" substitute "(c), (d) and (f)"

(ii) In page 8, omit lines 9 to 11.

Shri C. R. Chowdary (Narasaraopet): I beg to move:—

In page 8, lines 28 and 29 omit "with the consent of the petitioner".

Shri Tek Chand: I beg to move:

In page 8, lines 19 and 20, for "marriage was obtained by coercion or fraud," substitute "marriage was not obtained by free consent,".

Shri M. L. Agrawal: I beg to move:

In page 8, for lines 28 to 30, substitute:

"(c) that marital intercourse has not taken place since the discovery by the petitioner that the respondent was at the time of marriage pregnant by some person other than the petitioner "

Shri Venkataraman (Tanjore): I beg to move:

In page 8, after line 46, add:

"Provided that nothing contained in this section shall be construed as conferring upon any child of a marriage which is declared to be null and void or annulled by a decree of nullity any rights in or to the property of any person other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents."

Shrimati Jayashri: I beg to move:

In page 7, for lines 34 and 35, substitute:

"(b) on the ground of failure of cohabitation, and desertion for a period of two years."

[MR. DEPUTY-SPEAKER *in the Chair*]

My Deputy-Speaker: Amendments moved:

(1) In page 7, for clause 22, substitute:

"22. *Desertion.*—When either the husband or the wife has without reasonable excuse, withdrawn from the society of the other, for a period of two years, the aggrieved party may apply to the district court for judicial separation."

(2) In page 7, omit lines 34 and 35.

(3) In page 7, for lines 34 and 35, substitute:

"(b) on the ground that one party refuses to live with the other party and to carry out the obligations of marriage."

(4) In page 7, after line 35, insert:

"(c) on the ground that one of the parties has been suffering from leprosy or from venereal disease in a communicable form."

(5) In page 7, lines 32 and 33, omit "on which a petition for divorce might have been presented."

(6) In page 7, line 38, for "on the application by petition" substitute "on the written application".

(7) In page 7, line 40, for "petition" substitute "application".

(8) In page 7, for lines 29 to 35, substitute:

"23. *Judical separation.*—(1) A petition for judicial separation may be presented to the district court either by the husband or the wife on any of the grounds specified in section 27 [other than the grounds specified in clauses (i) and (j) thereof] on which a petition for divorce might have been presented."

(9) In page 8, line 1, for "impotent" substitute:

"in the case of a male, impotent and in the case of a female frigid."

(10) In page 7, line 43, omit "and Divorce".

(11) In page 7, lines 47 and 48, for "(c) and (d)" substitute "(c), (d) and (f)".

(12) In page 8, omit lines 9 to 11.

(13) In page 8, lines 28 and 29, omit "with the consent of the petitioner".

(14) In page 8, lines 19 and 20, for "marriage was obtained by coercion or fraud," substitute "marriage was not obtained by free consent,".

(15) In page 8, for lines 28 to 30, substitute:

"(c) that marital intercourse has not taken place since the discovery by the petitioner that the respondent was at the time of marriage pregnant by some person other than the petitioner;"

(16) In page 8, after line 46, add:

"Provided that nothing contained in this section shall be construed as conferring upon any child of a marriage which is declared to be null and void or annulled by a decree of nullity any rights in or to the property of any person other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents."

(17) In page 7, for lines 34 and 35, substitute:

"(b) on the ground of failure of cohabitation, and desertion for a period of two years."

Shrimati Jayashri: Mr. Deputy-Speaker, Sir, yesterday I was saying that the Women's Committee of the National Planning Committee appointed by the Congress had strongly condemned this part of the legislation. They have said that in a society that is pledged to any form of refinement of culture, a remedy of this character should be excluded from the Statute Book

Marriage is a union of persons who desire to live together and love one another. It is a union of body as well as soul. Marriage for the mere satisfaction of sexual appetite is not real marriage. Gandhiji said that he really came to enjoy his married life after he ceased to look on Ba sexually. Further on, he had said, that love became tyrannical when it extracts obedience from an unbeliever. Without love and mutual consent, the enforcement of this restitution of conjugal rights would be inhuman. I would describe this sort of action as rape. It is something like driving a beast of burden fully laden to proceed against its will. We are going to pass a legislation against cruelty to animals. May I ask whether this kind of legislation is not cruelty?

A few days back Panditji had narrated the story of a girl. Her marriage was solemnized. She saw some loathsome water oozing out from the bridegroom's body. She pointed this out to the father and refused to accompany the bridegroom after the ceremony was over. The bridegroom went to the court, filed a petition for the restitution of conjugal rights. The father refused to send the girl to the bridegroom. I ask hon. Members here as to what they would do if they were in that position? Would they send their daughter to such a husband? So, this kind of provision in a statute is tyrannical against women. Men are physically stronger and women have to yield. Many a time women though suffering, or physically ailing have to become the victims of this restitution of conjugal rights.

Mr. Deputy-Speaker: This clause applies both to men and women!

Shrimati Jayashri: If by force of legislation you make a husband and a wife to live together, I would say that is not real marriage, but what Acharya Kripalani called 'adultery'.

I am in fact surprised that, calling this measure progressive legislation, we should seek to incorporate such a provision in this Bill. I would strongly appeal to hon. Members to ponder over this matter. If they want to have a really progressive measure, they should do away with this clause. With this end in view, I have tabled an amendment that a person can ask for judicial separation on the ground that both are not willing to live together. I would even prefer to accept Shrimati Renu Chakravartty's amendment the wordings of which are better perhaps, that on the ground that one party refuses to live with the other party and to carry out the obligations of marriage judicial separation can be obtained.

I would appeal to hon. Members to do away with this clause and to accept our amendment.

Dr. Jaisoorya: Sir, I have very serious objection to clause 22 which deals with restitution of conjugal rights. This clause, again, is taken

[Dr. Jaisoorya]

from the old Indian Divorce Act which was also drafted by the Britishers in the light of their laws. Now the misfortue is that those laws are based on the old Jewish concept. It is stated on page 482 of Pomeroy & Kinsey (Sexual Behavior in the human female).

> "Jewish sex codes were brought over into Christian codes by the early adherents of the Church, including St. Paul who had been raised in the Jewish tradition on matters of sex. The Catholic sex code is an almost precise continuation of the more ancient Jewish code. For centuries in Medieval Europe, the ecclesiastical law dominated on all the question of morals and subsequently became the basis for the English Common Law, the statute laws of England, and the laws of the various States of the United States. This accounts for the considerable conformity between the Talmudic and Catholic codes and the present day statute law on sex."

At page 369 it is said:

> "The former subordinate position of the wife in marriage is reflected in the traditional attitude of English and American law which rules that she, in consenting to marry, has thereby given her irrevocable consent to accept coitus under any conditions from her husband, even though he may use extreme force or violence to achieve his ends.
>
> Even under present day American penal codes, a husband's coitus with his wife can never be interpreted as rape, no matter how much coitus may be against her wishes and no matter how much force may be used."

At page 368 of his book it is said:

> "Both Hebrew and Christian codes have emphasised the obligation of the wife and to a lesser degree the obligation of the husband, to engage in coitus with the lawfully wedded spouse..... therefore, in keeping with the more ancient concept of the wife as property acquired by the husband in a lawful transaction, the older emphasis was placed on her obligation to accept coitus as and when her husband desired it," but in the course of centuries this has changed somewhat. In Anglo-American law, such a refusal on the part of either spouse has sometimes been interpreted as desertion or cruelty and consequently, in many States as ground for divorce. A spouse's refusal to have coitus in marriage is still a matter for confession in the Catholic code."

My argument is this. This clause was taken from the old Indian Divorce Act. Subsequently the Rajya Sabha brought in divorce by mutual consent. The idea of restitution of conjugal rights implies that man and woman are property: man having a higher economic status, it is the woman who is generally considered as property. This Jewish-Christian concept which was brought into India by the British is totally out of date and you have no right to impose it upon non-Jewish, non-Christian India, which has the right in the post-revolutionary period to evolve its own laws as it thinks right. I, therefore, very strongly feel that not only is it unnecessary, but it is also reactionary; because it still continues the concept that woman is man's property, particularly in a matter where the free will of both the parties is very important. For instance, article 17 of the Chinese Law of Marriage says that divorce shall be granted where husband and wife both desire it. The matter is settled, there is no legal separation, restitution of conjugal rights, waiting for two years, waiting for three years, etc. All these things arise because we are unconsciously still sticking to the British concept.

Shri N. C. Chatterjee (Hooghly): Sir, Acharya Kripalani delivered a speech in rather bitter language condemning this clause. I am afraid

there is a good deal of misconception and some Members of Parliament approached me, rather seriously, to enquire whether there is really going to be any enforcement of specific performance of a contract. They asked: when you are reducing marriage to a contract, are you really attempting to specifically enforce it. It is quite true, as Dr. Jaisoorya has pointed out, that this clause as the hon. Law Minister has introduced it, is word for word taken from Section 12 of the Indian Divorce Act—Restitution of Conjugal Rights. Section 12 reads as follows:—

> "When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court or the High Court, for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly."

Learned commentators on this Section have said:

> "By the law of this country—under the Indian Divorce Act—married persons are bound to live together and if either withdraws from the society of the other without lawful excuse, the Court can compel the party to return to cohabitation."

Now, the Law Minister's clause is put in, rather, civilised language. There is 'withdrawal from society', but that is really nothing but codification of the English Law. In the English Law the words are: 'withdrawn from cohabitation', whereas the clause in the Indian Act uses the words 'withdrawn from society'. It has been held, Sir, that in this country the two words 'cohabitation' and 'society' have the same meaning.

It is quite true that *prima facie* this clause seems rather a misfit in a progressive Bill for civilised people. When you are thinking of a very progressive measure like this, why are you having this kind of crude concept, medieval concept, or something like a primitive concept of the right of restitution of conjugal rights? It is true that in England this has been derived from the old ecclesiastical courts. I am reading a passage from the standard book on the Indian Divorce Act:—

> "The remedy of restitution of conjugal rights was available in the ecclesiastical courts and the divorce courts are not only bound by its principles and rules..."

In England, so far as I know, they have taken away the power of actual enforcement of such a decree. You cannot now compel the wife to go back to the husband if the wife is not willing. The only thing you can do, either against the husband or against the wife, is to order attachment of property. If the wife has any property....

Pandit Thakur Das Bhargava (Gurgaon): In India also.

Shri Biswas: They cannot do it under order 21.

Shri N. C. Chatterjee: All that you can do is to order attachment of property. Even that is considered as rather brutal to levy attachment of property on a person simply because he or she does not feel the society of the other spouse as congenial, or felt it as repulsive.

This clause is in fact—so far as I understand—for the purpose of making divorce in some cases easier. Look at section 27, sub-section (i) on page 9. There you will find that one of the grounds for divorce is:

> "(i) one party has not resumed cohabitation for a period of two years or upwards after the passing of a decree for judicial separation against the respondent;"

And, then, sub-section (j) says:

> "has failed to comply with a decree for restitution of conjugal rights for a period of two years

[Shri N. C. Chatterjee]

or upwards after the passing of the decree against the respondent;"

I am asking the hon. Law Minister: can you not amend sub-clause (j) so as to satisfy the needs of the occasion? Can you not expunge clause 22 when there is so much feeling specially from the lady Members of this House that you should not have any such clause in a Bill of this character? This is meant for progressive and civilised people. When you are doing away with all primitive and canonical systems of marital relationship, why have restitution of conjugal rights? If you think otherwise, you drive people to the divorce courts, invent some grounds of adultery and resort to perjury or other things.

Pandit Thakur Das Bhargava: This may make it easier.

Shri N. C. Chatterjee: This will definitely make it easier. What I am suggesting is: can you not amend clause (j) in some way so as to say: "has failed to comply with or has lived apart for some time without coming together in spite of all attempts" something like that, so as to bring about the same purpose in another shape. I think, Sir, it is not incapable of suitable amendment so as to bring about the desired objective. If you do that, there is absolutely no necessity—in my humble opinion—to retain section 22. As it is, you can delete that section 22 without having any substitute and at the same time have suitable grounds for divorce by proper amendment of sub-clause (j) in section 27.

Shri S. S. More (Sholapur): Sir, I would not repeat the arguments which have been advanced by more able speakers who have preceded me. Dr. Jaisoorya has already referred to Section 32 of the Divorce Act of 1869. I might also refer to another section of the Parsi Marriage and Divorce Act, Section 36. I feel that this clause 22, if at all we are out for restitution of conjugal rights, should not be there in the present form. If at all we are out for having some provision like that, then I would recommend the wording of this Section 36 of the Parsi Marriage and Divorce Act. The relevant portion will be:

> "where husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may apply for the restitution of his or her conjugal rights."

Now, I quite concede that the wording which has been used, 'withdrawing from the saciety' is more decent.

Shri N. C. Chatterjee: Means the same thing.

Shri S. S. More: But in Law, particularly when we are legislating for the common people who will not go to the lawyers on every occasion when they require some clarification, our language should be more specific and should be so simple that it will be intelligible to common people whose lives are going to be affected by this legislation. Let us take the ordinary meaning of the words 'withdraws from society'. Now, Mr. Chatterjee was in his usual way quoting the English decisions. But, how many people are conversant with the English decisions? I feel, if I were to recommend any wording I would recommend the wording of the Parsi Law.

Shri N. C. Chatterjee: That is the English language.

Shri Tek Chand: Our law is an improvement.

Mr. Deputy-Speaker: May I ask the hon. Law Minister, what is the objection to using the word 'cohabitation' when it is used in sub-clause (i) of clause 27? It is not as if the word 'cohabitation' is not used at all.

Shri Biswas: If you will permit me to explain the matter now, I can do so.

Mr. Deputy-Speaker: Let us hear the hon. Minister first.

Shri Biswas: As a matter of fact, Sir, I am afraid hon. Members who have, since yesterday, been speaking against this particular clause have failed to realise the significance of it. It is not merely an attempt to secure an easy way to divorce as Mr. Chatterjee thinks. We know that marriage is intended—whether it is actually fulfilled or not is another matter—to be a life long union. Whether you regard it as sacrament or whether you regard it as a contract, the position is just the same.

Babu Ramnarayan Singh (Hazaribagh West): But, not by force.

Shri Biswas: Let me be permitted to speak without interruption. Sir, when it is sacrament the union is indissoluble. If it is a contract, it is not just like any other contract. Bentham in his *Theory on Legislation* has put: 'it is a divine contract imposed no doubt by the will of the parties'.

Shri Nand Lal Sharma (Sikar): Special Marriage is not a divine contract.

Shri Biswas: Sir, I will read from Bentham:

> "...with reason and because of certain mysterious expression of high import respecting it, in the sacred writings it has also been deemed a divine contract upon the ground of its having been so constituted by the circumstances of its original institution in the cause of our first parents and by the fact of its subsequent elevation into the character of a symbol or type emblematical of the union of Christ to this church."

I do not want to go into all this, but I was interrupted and provoked into making this digression.

Shri S. S. More: Don't be provoked.

Shri Biswas: If it is a contract, it is not just like any other contract. It is a contract founded on consent and the will of the community to be followed by a whole life of specific performance—that is the idea. Everyone knows that the marital status imposes certain obligations both on the husband and the wife What are you going to do if there is an infringement of the marital rights? Is there to be a remedy or not? The fallacy which underlies all the arguments which have been so far advanced by my hon. friends is this. They assume that sexual relationship is the only marital right or the only marital obligation created by marriage and this restitution of conjugal rights seeks only to bring the two parties by force together in order that they may have the luxury of cohabitation. That is not the only idea.

Shri Jhunjhunwala (Bhagalpur Central): That is one of the ideas?

Shri Biswas: Certainly, marriage is for progeny and that does not mean that there are no other rights which may be infringed and require also to be secured to the parties as far as that can be done in a humane manner. Even where you are seeking the resumption of cohabitation, the Code of Civil Procedure lays down that the decree for restitution of conjugal rights cannot be given effect to or cannot be executed except in the manner laid down there—by attachment of the respondent's property if the respondent is the husband, or by compelling him to make periodical payments to his wife to whom he has not done his duty. That is the position. Under the old Ecclesiastical Law of England an attempt was made by the ecclesiastical authorities to forcibly bring the parties together. They took a very strict view of their power in this matter. The Canon Law provided—

> "(1) that all sexual intercourse, except between husband and wife, is a mortal sin;
>
> (2) that marriage is a divine institution entirely under the control of the Church;
>
> (3) that all marriages not sanctioned by the Church are unlawful;

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(4) that divorce is impossible;

(5) that the Church can release the parties from their conjugal duties; and

(6) that they can enforce these duties in the minutest particulars."

Even the English law has deviated from this position. It did so long ago and that process is still continuing. Important as it is, the English law has rejected all these pretensions of the ecclesiastical authorities, and it is no use harking back to the slogan, "This is to be found in the English law and therefore it is just an anathema". Let us examine the matter on its merits. The English law does not slavishly follow the ecclesiastical laws. It has departed from the ecclesiastical laws. If the English law is bad, depart from it. There is no charm in it because it is English law. We have not reproduced these provisions only because they are to be found in the English law. They are found in the Indian Divorce Act, although it may have been derived from the English law. The English law even today is just the same. I do not think in spite of all that we may feel against the Britishers, they are not yet in the category of uncivilised people. They have some civilisation of which they can be proud. If we are proud of our civilisation, they may also be proud of theirs. In the world itself, they are recognised as a civilised nation. That being so, merely because this is a reproduction of what you find in the Indian Divorce Act, it is not a condemnation of these provisions. After all, what does this amount to? In so far as the question of forcible observance of certain marital duties which consist of a physical union between the man and the woman, it is admitted on all hands that that is out of the question. That cannot be and you only impose a penalty by way of a fine or an obligation to pay money or attachment of property. That is about all. Do not forget the declaration that the marital right still subsists is of great value in many cases. Do not overlook the fact that in many instances in India, there are other forces operating besides the will of the parties. The parents, for instance, may stand in the way. One of the rights is that the husband should have custody of the wife, and custody does not mean physical connection. Suppose somebody takes away the wife, then the suit for restitution of conjugal rights will lie and he can recover custody. Why should you limit this relief only to the case where there is a desire to restore cohabitation? That is not the only object. I do not think that we gain anything merely because we are oppressed with certain obsessions of ours. Let us try to get rid of those obsessions. Let us look at the matter in the proper perspective and decide whether it is good or bad for the parties. After all, what is the suggestion? I do not know why there is this puritanical objection to the words "restitution of conjugal rights". They will retain this clause by only say "This will be a ground for judicial separation" as if there is some magic in those words "judicial separation" and none whatsoever in the expression "restitution of conjugal rights". "Restitution of conjugal rights" is not an unparliamentary expression, neither is it indecent, nor is it obscene, at which you must fight shy. Conjugal rights are there whether you desire them or not, because the relation which you are creating by marriage is a conjugal relation, one of the most sacred human relations in the world, the oldest, the most ancient and it is a relation which has the backing of the whole community behind it. It is an institution, nothing less than that. It is not a mere contract between A and B that they shall be cohabiting night after night. That is not the idea of marriage, and it is wholly wrong to interpret these clauses with reference to that objective only.

Shri N. C. Chatterjee: The hon. Law Minister has not answered the point

that you put to him. In the English law, the words are "withdrawn from cohabitation", but we have not used that expression here.

Shri Biswas: We give a wider interpretation.

Shri N C. Chatterjee: We do not want to be accused for the increase in his blood pressure.....

Dr. N. B. Khare (Gwalior): I will treat him gratis.

Shri Biswas: Unfortunately, I do not suffer from blood pressure.

Shri S. S. More rose—

Mr. Deputy-Speaker: I will call Mr. More after I hear Mr. Chatterjee.

Shri N. C. Chatterjee: Your point was whether the word 'cohabitation' has been used in the English law. What is the objection in using the expression "withdrawn from cohabitation". The Indian Divorce Act has also used the words "withdrawn from society and there are cases of "withdrawal from cohabitation".....

Shri Biswas: It includes withdrawals from cohabitation, but that is not the only sense in which this is interpreted.

Shri S. S. More: Mr. Deputy-Speaker.....

Dr. Rama Rao: I would ask the legal pandits whether a decree for the restitution of conjugal rights involves the property of the party. Does a decree against a woman interfere with the property?

Mr. Deputy-Speaker: No, it is only against the person...

Shri S. S. More: I was arguing... (*Interruptions.*)

An Hon. Member: The property is attachable in execution of the decree.

Mr. Deputy-Speaker: It is not a suit for the property.

Shri S. S. More: I think I can resume the thread of my argument. My argument was that we are legislating for the common people and unless we have the idea in our minds to make this a fertile field for lawyers' imagination, we should use the simplest expressions possible. I have already referred to section 32 of the Act....

Mr. Deputy-Speaker: What is the language used in the Civil Christian Code?

Shri Tek Chand: Restitution of conjugal rights.

Shri S. S. More: In section 32 of the Divorce Act which applied to the Christians in 1869 the words are the same as they are used in the present clauses, namely, withdraw from society'. But in the later legislation which was passed in 1936, more specific words have been used. In 1936 this Parsi Marriage Act was passed. The legislators in 1936 were Britishers. They knew the wording of the Indian Divorce Act. They discouraged that wording in 1936 in favour of this new wording. So, according to the Law Minister who was in charge of the Bill then, he said that this is a better wording than the archaic wording of 1869 which might be in consonance with English phraseology. We are legislating for Indians and this ought to be in tune with the easy understanding of the Indian people. I would first recommend that. Let us think over this word cohabitation. The hon. Law Minister showed a sort of allergic sense of the word 'cohabitation'. I do not understand why he should be allergic to the word 'cohabitation'....

Mr. Deputy-Speaker: I understood him to say that the word 'withdraw from society' is more comprehensive..

Shri Biswas: These words, I am told, are taken from *Banerjee's Law Lectures*..."It follows from the nature of the matrimonial relations that the husband and wife must each be entitled to the society of the other...." This word occurs there. It is after this that we decided to retain the

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phraseology used in the Indian Divorce Act.

Shri S. S. More: If the Law Minister is pleased to say now that this expression "withdraw from society" connotes not only the right of cohabitation but it also implies some other rights.....

Shri Biswas: I have said so.

Shri S. S. More: Merely saying so is not enough. It must be brought out in so many words. What is at the back of his mind? I will take you to clause (b) of section 27. It reads..."(b) Has deserted the petitioner without cause ....." Now deserting is also withdrawing from the society. When a wife deserts her husband.....

The Minister of Defence Organisation (Shri Tyagi): Mr. More has deserted me.

Shri S. S. More: I have deserted Mr. Tyagi because he has succumbed to the temptation of office while I am not. When a wife succumbs to something else, the husband is bound.....

Dr. N. B. Khare (Gwalior): Sir, who is the wife?

Shri S. S. More: My submission is this. So many things may be there. A wife refuses to serve the husband food; refuses to attend to his other requirements other than cohabitation. But here cohabitation and the restitution of conjugal rights mean the restitution of a particular right. If that is the meaning .....(*Interruption*). I thank Mr. Velayudhan for giving me his advice of law.....

* * * *

I am trying to approach this matter not in a sexual sense but in a legalistic sense because these grounds are going to be grounds for judicial separation or even grounds for divorce. I am anxious to make the people know the real position. I was referring to the explanation which the hon. Law Minister gave that the expression "withdraw from society" means not only cohabitation but it means something more. I am at a loss to understand what else it could mean. As ordinary practitioners in law, we have been dealing with suits for restitution of conjugal rights..(*Interruptions*). I refuse to be interrupted by provocative words.....

Mr. Deputy-Speaker: This could both mean consortium and connubium in marriages of persons between 60 and 70 years with women about 50 years old. There are many cases. Therefore, some portions of the details of this society may not apply to those cases; but even in that case restitution of conjugal rights is allowed.

Shri S. S. More: My submission will be that the word 'desertion' will be sufficiently comprehensive to cover the case because when you have already provided for the cause of desertion, then if you want to provide something more specific, it is meet and proper that we should specifically define the particular relaltionship. When one is deserted or X is deserted by his wife, naturally desertion brings all the pangs. Desertion is likely to bring about withdrawal from society. Therefore, I say that this 'cohabitation' will be a better word. I am not yet in a position to understand the other rights which the Law Minister is seeing reflected in the expression 'withdraws from society'.

There is one thing more. The same word has been used in the Hindu Marriage and Divorce Bill which is before this House. There is something more in that Bill but there is no similar provision in the present Bill. When we are striving for uniformity and if different legislations covering the same field are in the possession of the House, we should make a serious attempt to have uniform provisions and phraseology as far as humanly possible. Take for in-

*Expunged as ordered by the Chair.

stance clause 9 of the Hindu Marriage and Divorce Bill which has been referred to the Select Committee. I am referring to the original Bill. The clause on restitution of conjugal rights is also similarly worded but there is also another clause. "Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which shall not be a ground for judicial separation or for termination of marriage." I do not find any similar clause to this particular clause 22 which refers only to restitution of conjugal rights. We find in section 33 of the Divorce Act a clause similar to that which I have read from the Hindu Marriage Bill. What is the reason for deletion of that provision? What is the point in having that provision in the Hindu Marriage Bill and what is the point in deleting that sort of thing from the Special Marriage Bill. This is a question on which we are entitled to have some clarification.

Now, I will go to the ethical problem whether we should permit such restitution or not. Dr. Jaisoorya was perfectly correct when he said that behind this idea of restitution of conjugal rights, there is a sense of property. When I purchase a field, I have every right to have the use of that field. If I am prevented by somebody from my using the field, I can go to the court and remove that impediment. In this case the mind of the other party is the impediment in my way. When one enters into marital relationship by holy wedlock, the other party stipulates to supply him so many things. In this marriage, which is not a sacramental marriage, consent has become the most important thing. The consent of the party gives validity to the contract. If you read clause 25, you will see that when consent is obtained by.....

Mr. Deputy-Speaker: The contract is completed by marriage.

Shri S. S. More: But, consent is supposed to be the foundation.

Mr. Deputy-Speaker: Is it open to one party to break a contract?

Shri S. S. More: I am coming to that. In clause 25, it is said, if the consent given originally to the marriage was not a free consent,—I am referring to clause 25—if the consent of either party to the marriage was obtained by coercion or fraud, as defined in the Indian Contract Act, the Indian Contract Act with all its implications is made applicable to such marriages.

Mr. Deputy-Speaker: Then, they would not grant a decree for restitution of conjugal rights.

Shri S. S. More: My point is this. The two parties may come together by initial consent. The consent implied that they will permit one another to perform all the responsibilities of that new relationship that they were trying to bring about. But, subsequently, if any of the parties refused to cohabit, it means that he or she has withdrawn his or her consent from the performance of the obligations under the contract. If he or she has withdrawn his or her consent, this is a contract where specific performance will be more than impossible. Section 9 or any other section of the Specific Relief Act will not be applicable to such a relationship. I am not using the English saying in a very flippant way, the saying is: You can take a horse to the water; you cannot make the horse drink. Similarly you can pass a decree for restitution but it will not bring about the *de facto* restitution. The relationships are more mental than physical. It is not subjecting one's body to the operations of the other. Willing consent in all respects is the real factor. The hon. Law Minister was pleased to say, "that luxury of cohabitation." In a sense, it is a luxury when it is a willing relationship brought about. But, if it is something brought about by force, only the body is offered, not the mind. Then, it is worse than tyranny. It is worse than slavery. I would say that our courts should not be used as instruments for bringing

[Shri S. S. More]

about slavery. If a woman is not willing to cohabit with her husband, he can go to the court and say, she is refusing this, allow us to separate. Why restitution of conjugal rights become one of the fundamental planks of Christian legislation? Under the old Christian conception, marriage was indissoluble. It was unbreakable. Restitution of conjugal rights was therefore a necessity, an unavoidable necessity, or an unpleasant necessity. Now, we say that the parties can separate by consent. If the parties can separate by consent, withdrawal of consent for the conjugal coming together must also be treated as nullifying the whole contract, and it might furnish a ground for setting aside that contract. I would say that it smacks very bad that such a legislation should be on our statute-book. It gives a bad odour of the woman's bondage or a man's slavery to a particular woman. Therefore, I would say that as we are trying to march with the modern times, let us not go back to the archaic times, let us not go back to the times when man was supposed to be the bondsman of a woman or a woman was supposed to be the galley slave of a man, offering her body unwillingly to the operation of the man, to the lust or licentious desire of the man. I do not want the courts to be instruments to bring forced restitutions. It is no use passing a decree which by itself is ineffective and cannot be enforced. You are making the courts decide other matters which are extremely delicate, which might offend the nice sensibilities of so many persons, ask people very delicate questions about this relationship and then find out in a very serious manner saying, I believe this witness, I do not believe that witness. That would be ridiculous. I know the hon. Law Minister has argued on this point with very great vehemence. In spite of that, I would request him to delete this provision, clause 27 (j) which says, "has failed to comply with a decree...". Don't bring in a decree here. Simply say, if there is a cessation of conjugal relationships, that should by itself be a ground. I think it will be covered by the word desertion. Otherwise, what will happen? If a man or a woman is out to seek divorce on this ground, they will have to satisfy the condition of having secured a decree. Because, unless the decree is there and the decree has remained unfulfilled for some time, there will be no cause of action for seeking divorce on this ground under this particular clause.

Mr. Deputy-Speaker: This is another ground. Desertion is an alternative ground. It is not applicable. A decree for restitution is not a condition precedent.

Shri S. S. More: I make my own submission. I am reading from clause 27. It says:

> "Subject to the provisions of this Act and to the rules made thereunder, a petition for divorce may be presented to the district court either by the husband or the wife on the ground that the respondent,—(a), (b), (c), etc."

Suppose a man or women has no other cause. Suppose we also knock out divorce by consent; I cannot anticipate the final verdict. Suppose divorce by consent is also ruled out. Then they will have to take one of these causes as the cause for getting a decree for separation In that case, if a man's real grievance is that he has been refused cohabitation sub-clause (j) will come in. In this case, the mere plea that the wife has refused to have any matrimonial relationship will not be an effective cause. He will have further to prove that he had obtained a decree for restitution of conjugal rights, and that that decree has remained unfulfilled. Then only he can apply. Have I made myself clear? I want to be corrected by you.

Mr. Deputy-Speaker: Under the existing law of Civil Procedure, is it open to the court to physically hand over the woman?

Some Hon. Members: No. no.

Shri S. S. More: I quite see that.

Mr. Deputy-Speaker: It is not so. Therefore, all these arguments of slavery and other things, I am not able to follow.

Shri S. S. More: It is only a decree giving an opportunity to the husband and wife to come together and live together. If they do not do so, it will be evidence positive for a decree for divorce or judicial separation later on.

Mr. Deputy-Speaker: What is the other ground? I am not able to follow.

Dr. Jaisoorya: In clause 27 (k) you have it.

Shri S. S. More: I am sorry. I can understand court playing the part of an arbitrator and trying to reconcile the conflicts of the husband and the wife. But, I think that the function of the court will not be that of a reconciler or an arbitrator, trying to bring about good relations between the parties. He will hear the evidence of the plaintiff and the defendant and pass a decree against the respondent if she fails to show that there is any reasonable cause.

Mr. Deputy-Speaker: So far as a woman is concerned, is it not merely a declaratory decree?

Shri S. S. More: It is not a declaratory decree that she is the wife of X. It is a decree.....

Acharya Kripalani (Bhagalpur *cum* Purnea): It is followed by consequences.

Mr. Deputy-Speaker: There is no consequence. She is not physically handed over.

Shri Sadhan Gupta (Calcutta—South—East): Order XXI of the Civil Procedure Code, her property is liable to attachment, ornaments and so on.

Shri Biswas: See clause 33.

Shri S. S. More: Here, the court has not got to try to bring about good relations between the two. It is not a matrimonial court in the sense in which it is understood in other countries or by some of our Acts. In the Parsi Act, there is a matrimonial court. This is an ordinary court which will deal with your chattel or property.

1 P.M.

Acharya Kripalani: Whoever is a chattel. My submission is that here the court is commissioned to discuss and decide whether there is any reasonable cause. If it comes to the conclusion that there is no reasonable cause, it will straightaway proceed to pass a decree and the enforcement of the decree will be left not to the the officials of the courts, but to the successful plaintiff.

Shri Biswas: May I remind the House that only forty-five minutes are left for the other clauses?

Shri S. S. More: I have nothing further to say. I make an earnest request that this particular provision should not be brought on the statute-book.

Mr. Deputy-Speaker: Before proceeding further, may I submit for the consideration of the House that these clauses are so inter-related, that hon. Members who have an opportunity to speak may speak on all the clauses, *viz.* clauses 22 to 26, and also on all the amendments that have been tabled to the respective clauses.

Dr. Rama Rao: We have only half an hour more.

Mr. Deputy-Speaker: I will give only five minutes to each Member.

Shri Tek Chand: I crave your indulgence to give me a little more time...

Mr. Deputy-Speaker: No.

Shri Tek Chand:...because I feel that those who have criticized it have done so—I say so with the utmost deference—without examining the

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history, without knowing the law, without the facts, and without any study. There are others who imported unnecessary heat and warmth, and used language, which was almost acidic, almost vitriolic, as I had occasion to hear yesterday. If they had only taken the pains to study what restitution of conjugal rights means, before airing their views, it would have been better for them as well as for their listeners.

So far as the restitution of conjugal rights is concerned, the language used in our Bill is the only appropriate, precise and correct language that could be used. Those who have endorsed this particular clause, I am sorry to say, have not considered the real point that underlay these provisions. It is worthy of notice that there are three words which have been used in this Bill, *viz.* consummation, cohabitation, and society. The word 'society' has been used deliberately, and this is the only word that will serve the purpose.

Marital rights are not rights of *connubium* only; marital rights are also the rights of *consortium*. Marital rights include not only physical union, but also bringing up of the children, and educating the children...

Acharya Kripalani: Only cooking and washing.

Shri N. C. Chatterjee: The right to cook.

Shri Tek Chand: Cooking and washing also. I am not ashamed to say so. (*Interruptions*) Marital rights include nursing during ill-health and worship. One word that Roman law has used is *consortium*, in contradistinction to *connubium*, and the same sense is given when divorce is granted in the archaic from that is *a mensa et toro* (from board and bed). It is the right of the husband and wife to share the bed as well as the board. Therefore, when you come to society, it is included in marital rights. One hon. friend of mine went to China to bring his criticism of the law. Somebody else went to the Jews, but nobody, so far as I am aware, has taken the trouble to go to your *Hindu Law*, to what Mulla has got to say about it.

Acharya Kripalani: I thought this was the reform of the Hindu law. This is the Special Marriage Bill.

Shri Tek Chand: I wish the hon. interrupter had done some thinking about it. Section 442 of Mulla's *Hindu Law* explains what are marital duties, and among the marital rights are included certain extra-connubial duties as well. These are the marital duties that have to be discharged, and the refusal to discharge these duties can be short of desertion. In other words, the husband can stay in a hotel, his child is ill in the house, he can gamble away in a club. It is no desertion, but the wife can go to a court for restitution of conjugal rights on the ground that the child is unwell, saying that somebody has to nurse the child, he has deserted me for the time being, temporarily, etc. It is not desertion in law. His gambling away things in a club, and spending the nights in the hotels is not desertion in law, and no moral indiscretion may be attributed to them. It is not desertion in the eye of law, but this is a case fit for the restitution of conjugal rights, conjugal rights including *consortium* as well as *connubium*.

Shri Pataskar (Jalgaon): Can she file a suit because he is gambling away in the club?

Shri S. S. More: She should brief Shri Tek Chand.

Shri Tek Chand: If the desertion attributed to the husband amounts to the denial of conjugal rights, then this suit is contemplated in section 444 of Mulla's *Hindu Law*. The list of marital duties is given in section 442 of Mulla's *Hindu Law*. Yesterday, Shri Pataskar said, what is the use of this thing, go to the Civil Procedure Code.

Shri Pataskar: Common law.

Shri Tek Chand: I did not like to interrupt him. I wanted to say that the Code of Civil Procedure is not a substantive law, but that it is an adjective law, and it does not give an answer to the question as to what the law is; it only gives an answer as to how the law is to be enforced. It is a procedural law, and not a substantive law.

If you wish to go to the Code of Civil Procedure, take the trouble of opening Order 21, Rule 32, which deals with...

Shri Pataskar: I said it was a common law right, which could be enforced through the Code of Civil Procedure.

Shri Tek Chand: Order 21, Rule 32 provides for a decree for restitution of conjugal rights, and the consequences are not specific performances, as an hon. Member lightly remarked. It is only a certain amount of pressure. Remember that you owe certain duties to your spouse with whom you have got to live for the rest of the days, so far till death, now at least till divorce.

There are gradations when there is a disruption in the family. On the other extreme case is of divorce *a mensa et toro*, (from board and bed). Then, there is the nullity of marriage, which is divorce *ab initio*, divorce from the very inception of marriage. Thirdly, you have judicial separation, and lastly, when conjugal rights are being denied, you ask for restitution. The party can say, I do not deny he is my spouse, I do not want to separate from him, I do not want to divorce him, I do not want to insist that he should discharge his connubial duties, but all that I say is that besides connubial duties, he owes certain other duties, I have certain other marital rights, certain marital liabilities which are due to me. Therefore, it is from that point of view that you have it in Hindu law. You have it in the Christian law, and you have it in the Parsi law also. So far as the Muslim law is concerned, I have not got the books with me here, but to the best of my recollection—I do not like to make a mis-statement—the same is the law there. You have only got to examine section 32 of the Indian Divorce Act. You have got to examine section 36 of the Parsi Marriage and Divorce Act (Act III of 1936). My hon. friend here said that we should substitute the language of section 36 of the Parsi Marriage and Divorce Act, but I say, you will be doing violence to the real sense of the term, if the words 'conjugal rights' be substituted by the word 'cohabitation'. Cohabitation is a totally different physical concept. There are other necessary moral and legally enforceable concepts. Therefore, taking into consideration all those matters, I feel that this is a protection which is absolutely necessary, for it has reason behind it, it has logic behind it, it has history behind it; and the language as worded, *viz.* 'society' is correctly used, and it is not a euphemism for connubial relationship, but it means society, and nothing more and nothing less than that. Society includes many more things than connubialism.

Acharya Kripalani: Why not separate the two?

Pandit Thakur Das Bhargava: Separation is provided in the Act of 1946.

Acharya Kripalani: That is the object of the Bill.

Mr. Deputy-Speaker: Now, Shrimati Renu Chakravartty.

Shri Tek Chand: You were pleased, a short while ago, to say that those of us who have moved their amendments with respect to the other clauses may say now whatever they have got to say on them.

I have moved a number of amendments to the clauses which are the

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subject-matter of this debate. If you permit me, I would like to speak....

Mr. Deputy-Speaker: Later on. Let us see if there is time.

Shrimati Renu Chakravartty: I will try to be very brief and cover two or three amendments which I have got. I would just like to remind the speaker who spoke before me that he has not the monopoly of all thinking. I feel, the more I hear of the discussion on the clauses, that it is a blessing that I am not a lawyer. So I can still say what I mean to say, and mean what is required from modern life.

Now on the question of restitution of conjugal rights, we who know the English language, with the poor knowledge that we have, understand it in a particular way. To some lawyers, it means that you need not restore conjugal rights. There is no force in it. Therefore, why have it? I do not understand it. Not only that. My learned friend, Mr. Chatterjee, pointed out to me that in Mulla there is a section which says that the mere fact of the husband marrying a second wife or mere infidelity on the part of the husband is not by itself sufficient to disentitle the husband from claiming restitution of conjugal rights.

Shri Tek Chand: Read the earlier portion.

Shrimati Renu Chakravartty: I do not want to read the rest of it because you have told us what is in the rest of it. I was very surprised to find that this portion had been completely left out.

Shri Venkataraman: That applies only to Hindu marriages, not special marriages.

Mr. Deputy-Speaker: Which is the edition she is referring to?

Shrimati Renu Chakravartty: 1953.

Mr. Deputy-Speaker: May I ask Mr. Chatterjee whether we did not pass some legislation in this House saying that under certain circumstances, if the husband marries a second wife, the first wife can live separately and ask for maintenance allowance?

Pandit Thakur Das Bhargava: 1946 Act.

Mr. Deputy-Speaker: In that case, this observation is contrary to what has been passed by this House.

Shri N. C. Chatterjee: On the ordinary Hindu law—that is what Mulla has said.

Mr. Deputy-Speaker: The ordinary Hindu law has been superseded by an Act of Parliament.

Shri N. C. Chatterjee: To some extent.

Shrimati Renu Chakravartty: Let us supersede it by another law. Now, what do we really want? It is not a question of being a purist. I am not being a purist on this point. There is an element not only of proprietorial attitude in this as various speakers have stressed; there is definitely an element of force, of coercion in the sense that the woman's property can be attached too. Therefore, let us not just say, 'well, it does not matter; it is a thing that is quite innocuous; why be fussy about it'.

Shri Biswas: Is that the kind of notional force that is objected to?

Shrimati Renu Chakravartty: It is not a notional force at all. I remember very clearly the hon. Minister telling us.....

Shri Biswas: Physical force.

Shrimati Renu Chakravartty: It was said that there was every right, if the woman had any property, to attach it. Therefore, it is not only a question of notional force. I would rather say that we should use terminology which clearly states the principle on which we stand and that principle is that the basis of marriage

is mutual understanding and mutual acquiescence. If that is the basis, let us say what we mean and not bring forward legal rigmaroles by which other matters are brought in. That is why I agree with my friend, Mr. Kripalani, when he says that it is barbaric, and it is a relic of the past. If it is so, then do away with it. We are doing away with other things. Let us, from that point of view, accept the deletion of this clause. At the same time, I should like to take into consideration the practical implications of the clause. Firstly, there are some people who want deletion of this because it will reduce the chances of divorce; there are others who are supporting it because this gives a chance for divorce; there are some others also whose point of view has not been brought forward here—I remember my friend, Mr. S. V. Ramaswamy—who is now sitting very quiet—saying that this is going to bring about reconciliation. Sir, I fought that idea tooth and nail in the Select Committee. Once you bring about this idea—attaching property by force—that will make things difficult. Of course, at that time, not being a lawyer, I did not know exactly what such a provision meant. Actually, he put it in such a way that many of us were convinced that this was a way by which if a man did not take his wife, the restitution of conjugal rights might be proceeded with in such a way that the wife who was deserted would be by compulsion taken back by the husband. Actually, I had at that time pleaded that such reconciliation could never lead to happiness. The father-in-law and the mother-in-law will make the life of the woman a hell; maybe she will not even survive to carry out the very "grave" responsibilities of conjugal rights, as Mr. Tek Chand terms it.

These are the practical implications that I wanted to place before the House. I would put it in this way. If the husband or the wife is not agreeable to carry out the obligations of marriage, well, let that be a ground in itself for judicial separation. Accept it not by the back door but accept it directly. Say that if you are not prepared to carry out the responsibilities of marriage, then at least that should be a ground whereby there can be either judicial separation or divorce. That is why I proposed my amendment No. 140 where I have said that on the ground that one party refuses to live with the other party and to carry out the obligations of marriage, there should be judicial separation. I had also put forward amendment No. 322. But that was a technical point because we could not ask for deletion at this stage—the complete deletion of the clause—but we could vote against the clause relating to restitution of conjugal rights itself in its entirety.

Therefore, let us, when we put this before the House, say what we mean. Let that meaning correspond to the demands of the times—the modern attitude towards marriage.

There is another amendment of mine which, I am afraid, nobody else touched on. That is No. 141 on the question of judicial separation on the ground of leprosy or V. D. It says: According to the clause relating "to divorce, the right of judicial separation is given if either party has for a period of not less than five years been suffering from leprosy or venereal diseases. Only under such circumstances can judicial separation be undertaken. I think this is a completely wrong thing. I can understand the argument for fixing the period of a number of years for divorce; I can understand it because divorce is a very serious thing; it means the termination of marriage. But so far as judicial separation is concerned, you must not allow anything to happen whereby the disease of one is contracted by the other party. Therefore, there is no logic in putting a time-limit to it. Of course, my friends, especially doctor friends, will come forward with the resolution which has been passed by the Anti-Leprosy conference. But I would like to invite attention to the

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report which has been given to us by the Director-General of Health Services, where he categorically says that although leprosy is not regarded as fearsome as it was, still they say that it does endanger health, especially if it is contracted by a husband or wife. Can we force them to live together under such conditions? When a man is working in office the contact may not be as fearsome as in the case of a husband and wife. If it is leprosy in an infectious form, it should not be that we have to wait for five years before any kind of separation can take place. Therefore, I feel that we should not put any time-limit for judicial separation. Therefore, I recommend the deletion of clause 22 and the acceptance of my amendment No. 140 for an added ground for judicial separation and to say that in the case of leprosy or venereal disease in a communicable form, we should not place a time-limit for judicial separation.

Pandit Thakur Das Bhargava: Will amendments to clauses 25 and 26 be allowed to be moved or not?

Mr. Deputy-Speaker: Hon. Members were asked at an earlier stage to hand in the numbers of the amendments which they wanted to move.

Pandit Thakur Das Bhargava: Sir, at that time only clause 22 was under discussion.

Mr. Deputy-Speaker: The Hon. Speaker has already placed before the House the list of amendments to clauses 22 to 26 that will be taken as moved. He has read out the numbers of all those amendments. When I was here, last evening, I suggested to hon. Members kindly to pass on chits indicating all the amendments to clauses 22 to 26 which they wanted to move.

Pandit Thakur Das Bhargava: Are they time-barred now?

Mr. Deputy-Speaker: I am prepared to allow the hon. Member.

Pandit Thakur Das Bhargava: Sir, I move amendments 275 and 276. I beg to move:

(i) In page 8, lines 26 and 27, for "from the date of the marriage" substitute:

"from the date of the knowledge of the facts alleged;".

(ii) In page 8, lines 41 and 42, for "section 24 or section 25," substitute:

"section 24 on any of the grounds mentioned in clauses (a), (b), (c) and (e) of section 4 or section 25 on the ground mentioned in sub-clause (iii) of section 25,".

Mr. Deputy-Speaker: Amendments moved:

(1) In page 8, lines 26 and 27, for "from the date of the marriage" substitute:

"from the date of the knowledge of the facts alleged;".

(2) In page 8, lines 41 and 42, for "section 24 or section 25," substitute:

"section 24 on any of the grounds mentioned in clauses (a), (b), (c) and (e) of section 4 or section 25 on the ground mentioned in sub-clause (iii) of section 25,".

May I know whether the hon. Minister wants to speak at the end?

Shri Biswas: I will not reply on all the points on which I have already spoken but if there are any additional points, I will have to reply and I will not take up more than five minutes.

Mr. Deputy-Speaker: Five minutes will be reserved for him at the end.

Shri Biswas: With your permission, Sir, may I table a formal amendment for the acceptance of the House? In

clause 22, in the second part, you will find:—

"and the court, on being satisfied of the truth of the statements made in such a petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly."

Similar provision should have been there in clause 23 dealing with judicial separation. It merely says that a petition for separation may be presented on certain grounds and it does not say, 'that the court on being satisfied.....'. May I hand in an amendment with the leave of the House for amendment of clause 23 in similar terms?

Mr. Deputy-Speaker: I will take it as moved.

Shri Biswas: I beg to move:

In page 7, after line 35, insert:

"and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly".

Mr. Deputy-Speaker: Amendment moved:

In page 7, after line 35, insert:

"and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly".

Shri Venkataraman: I will first refer to my amendment No. 325, to clause 26. This clause 26 grants the rights of legitimacy to children the marriages of whose parents have been declared to be voidable or void under clause 24. The clause, as it stands, states that the children born before such a decree would be deemed to be legitimate. The amendment which I seek to submit to the House says that so far as these children are concerned, they will be entitled to inherit only to the property of their parents and not to the property of the collaterals.

Pandit Thakur Das Bhargava: So that the fiction will be that an impotent person is able to procreate a child, a wonderful phenomena.

Shri Venkataraman: If, as I said during the course of my speech yesterday, the father and mother paternise it, I would submit that Pandit Thakur Das Bhargava and I should not object to it. The point is this. The right conferred under this clause would enable the child to inherit to the property by reason of the declaration that they are legitimate. We are curtailing that right only to inheritance to the property of the parents. An amendment to a similar effect was accepted by this House in relation to clause 18 and therefore this may be accepted.

So far as clause 22 is concerned, I beg to place before the House this point of view. I entirely agree and am entirely in favour of granting divorce where the husband and wife do not agree to live together, or mutually want to separate. But if one of the spouses wants to continue to have the marital conjugal life with the other and the other person is not willing to have the continuation of such marital rights. Now, are we going to say that there shall be a right of divorce unilaterally granted to all people? Should not society endeavour to see that some method is adopted whereby the other party may be made.....

Shri S. S. More: Does not desertion by a party a good ground for divorce unilaterally?

Shri Venkataraman: Yes, but still a suit for restitution of conjugal rights may be filed.

Pandit Thakur Das Bhargava: Desertion involves two things, absence of provision for maintenance plus withdrawal from society.

Shri Venkataraman: I was trying to say that where one of the parties to the marriage does not want to continue the marital life, if we agree that that shall be a sufficient ground for divorce, then the clause about mutual consent will be given the go-by. We may say that anybody can get a divorce by a unilateral declaration that he or she does not want to continue to live as the husband or wife of the other. It is like what happens in the case of the severance of a joint family; the moment the notice is given there is a severance. Do you want such a state of affairs to be introduced? The object is to see that as far as possible marriages are not broken. The clauses relating to judicial separation and divorce are intended to provide for the exceptions where they cannot get on together. The normal course would be to try (i) persuasion and (ii) a little compulsion. It is not very great compulsion. It is not as if, as Mr. Chatterjee himself pointed out, that specific performance can be granted by bringing the person. There is a small element of compulsion, namely, of attaching the property so that the man may be made to feel that by refusing to give the marital society to the other spouse he stands to lose a certain amount of property and that he will be in certain difficulties.

Shri Barman (North Bengal—Reserved—Sch. Castes): Can the property be attached in such a case?

Shri Venkataraman: My friend will refer to 0·21 RR. 32 and 33 of the Civil Procedure Code where attachment of property is allowed. Therefore, my submission is that instead of this clause being a hardship to women it would be of great help to the weaker sex in society. It is often likely that the vagrant is the man and the woman wants the society of the husband. If there is no provision by way of restitution of conjugal rights, then the woman would be left without any remedy whatsoever. If the woman really wants to have the society of the husband and she is not anxious to leave him, then by threatening to attach his property, we may make him see reason. Our attachment to property is so great that we are sometimes willing to put up with an unwanted wife rather than lose property. That is how society is constituted.

Shri B. C. Das (Ganjam South): Will a woman in such a case be happy in the company of the husband?

Shri Venkataraman: Take the case of a woman who does not want divorce. Would you say that in that case she should have no rights or no authority over the husband in respect of the marriage? Therefore, it is more in consonance with the protection of the weaker sex than the compulsion of the man. I would earnestly make this submission to the consideration of the House. It is a clause which is found in almost all the laws of matrimony all over the world. In fact, clause 15 of the Matrimonial Clauses Act of 1950 adopts the same language.

We have already referred to sections 22 and 23 of the Indian Divorce Act. Therefore, I would submit that we need not be afraid of the expression 'restitution of conjugal rights' and the enforcement thereof. On the contrary, it may certainly serve as a sort of boon to the weaker sex in seeing that the man sees reason in his dealings with women. I support the clause as it stands.

बाबू रामनारायण सिंह : उपाध्यक्ष महोदय, इस विधेयक के सम्बन्ध में इतनी बातें हो चुकी हैं और इतने लोग इसके प्रतिकूल बोल चुके हैं कि मैं तो समझता हूं कि अक्ल और ईमानदारी का तकाजा है कि विधि मंत्री इस धारा २२ को उठा दें। हमारी समझ में यह यहां पर सोभता नहीं है। उपाध्यक्ष महोदय, यह जो विवाह सम्बन्धी विधेयक चल रहा है इसमें तो अप स्त्री और पुरुष को हर तरह की स्वतंत्रता

दंते हैं कि चाहे जिस तरह से विवाह करो, चाहे जहां करो, जितने दिन के लिए चाहो करो, और फिर भी आजादी हैं कि चाहो तो छोड़ दो, अर्थात् आप यह अधिकार दंते हैं कि जो कुछ हो वह दोनों के प्रेम से होना चाहिए। जब इस विधेयक का मंशा इस तरह का हैं तो आप इसमें यह जबरदस्ती वाली बात क्यों लाते हैं। उपाध्यक्ष महोदय, जैसा कि कृपालानी जी ने कहा था, यह बात तो सभ्यता के प्रतिकूल और मानवता के प्रतिकूल मालूम होती हैं कि आप जबरदस्ती किसी स्त्री या पुरुष को एक दूसरे के साथ कर दें। इस तरह से एक जगह करने से क्या होगा। इस जबरदस्ती से आप लोगों को कहां तक घसीटते चलेंगे। मैं समझता हूं कि यह धारा भयानक तो हैं ही, साथ ही मैं समझता हूं कि यह व्यर्थ भी हैं और किसी स्त्री या पुरुष को इससे लाभ नहीं पहुंचेगा, इस वास्ते मैं उमीद करता हूं और सुझाव दंता हूं कि इस धारा को उठा लिया जाय, क्योंकि अभी तो लोग यही कहेंगे कि न मालूम इस धारा का लिखने वाला कौन था जिसे यह नहीं मालूम था कि इसका नतीजा क्या होगा और उसने इस बात को रख दिया, लेकिन अगर हम पास कर दंगे तो दंशवासी कहेंगे कि सारी लोकसभा कैसी थी जिसने इस तरह की चीज पास कर दी, इस वास्ते मैं कहता हूं कि इस धारा को हटा दिया जाय और अगर सरकार इसको उठाने को तैयार न हो, तो जितने हम लोग संसद् के सदस्यगण हैं उनको इसको रद्द कर दंना चाहिये।

Mr. Deputy-Speaker: I shall proceed to the next group of clauses at 1-45. There are still about twelve minutes. I am prepared to allow the hon. Minister to speak if he wants to.

Shri Biswas: I only want to say a few words about Mr. Venkataraman's amendment.

Mr. Deputy-Speaker: Then, the hon. Minister may reserve his remarks to the end. Pandit Thakur Das Bhargava.

पंडित ठाकुर दास भार्गव : जनाब चेयरमैन साहब, मेरी अदब से गुजारिश हैं कि यह जो बिल हैं, यह एक बड़ा अजीब सा बिल हैं। इसके अन्दर....

Shri Venkataraman: I would request Pandit Bhargava to speak in English as this is a legal matter.

Pandit Thakur Das Bhargava: I am sorry to have attempted to speak in Hindi now. I feel that even day before yesterday I made a mistake. Thank you very much.

In regard to my amendments Nos. 275 and 276 I have only to say a few words. My first amendment seeks to substitute the words "from the date of knowledge of the facts alleged" for the words "from the date of marriage." If a person is ignorant of facts why should limitation run against him? Limitation should not run against a person who is ignorant of facts. Whenever a question of fraud arises, say under section 18 of the Limitation Act, the period from which limitation runs is the date from which the fraud is known. Here in this case the fraud may not be known and yet limitation runs. I, therefore, submit that my amendment is necessary.

In regard to my amendment No. 276, I was rather surprised to hear that an impotent person who has been found to be impotent at the time of marriage, at the time of the institution of the suit, should be asked to accept the responsibility of the father of an illegitimate child, in spite of the findings of the court.

Shri Venkataraman: May I draw the hon. Member's attention to the language of the amendment—"any child begotten before the decree is made."

Pandit Thakur Das Bhargava: Begotten by whom? Begotten by the impotent person.

This is a very curious piece of law. A person, on your own showing, is impotent, and yet you say he becomes the father of a child. Similarly in the other case, a woman is found to be pregnant by another person by

[Pandit Thakur Das Bhargava.]

the court. Yet, the poor husband is made the father and he is made responsible for the maintenance of the child. I cannot understand this law: this is very curious. We are all in favour of legitamising children. I do not want any children to be illegitimate. But I cannot go to that extent of the impossible being made possible. An impotent person cannot become the father of a child; not can the fatherhood of a child of a woman who has been found to be pregnant from some other person in a judicial court be imputed to the supposed husband.

Dr. N. B. Khare (Gwalior): The sex can be changed, as we daily see from the papers, if it is changed in Holland and Denmark, why not in India?

Pandit Thakur Das Bhargava: Now, Sir, I want to say a few words as to the necessity for the retention of clause 22. I have not been able to understand the speeches of many hon. Members who have expressed opinions to the contrary, especially the arguments advanced by my revered friend Shri Kripalaniji. He spoke of Gandhiji, of the *rishis*, old hermits and several others. So far as the *rishis* are concerned, this provision cannot apply to them because they are civilly dead and have entered into *vanaprastha*, just as in the case of my venerable friend Shri Kripalaniji who has entered into *vanaprastha* for all practical purposes. He goes about his public work: at the same time he is a married man.

Acharya Kripalani: When you say that company is enough: why should you put in the word "conjugal rights"?

Mr. Deputy-Speaker: "Conjugal rights" is not in the operative portion.

Pandit Thakur Das Bhargava: Conjugal rights" does not mean cohabitation alone.

The speeches made by the hon. Minister and Shri Tek Chand are very clear on the point. The real purpose of marriage is companionship for whole life; therefore, the husband may ask for companionship of his wife and *vice versa*.

Acharya Kripalani: Can spiritual companionship be enforced?

Pandit Thakur Das Bhargava: There is no force here. A decree cannot be enforced or executed by force. A person cannot be asked to do something against his will.

Shri Pataskar: This is legal pressure.

Pandit Thakur Das Bhargava: Before the Civil Procedure Code was amended, a woman could be forced to live with her husband, and a husband could be forced to perform certain duties. Now the law is changed. Now you cannot force any person. This is a matter in which the parties could only be brought together; they may be reconciled. This is a very good provision.

Even before divorce it is very difficult to prove all the circumstances relating to divorce. If you have got a decree you have got something on your hands which is the basis of divorce. My hon. friend, Mr. More, who I find is not in his seat, said that if there is desertion there is no company. It is absolutely wrong. There are two things involved in desertion: maintenance and company. Supposing a person gives maintenance to his wife, but does not give company. My submission is that the wife is certainly entitled to ask for restitution of conjugal rights. So long as the marriage is not dissolved, why parties who have entered into relationship for lifelong companionship should not be asked to come together through a court? I do not think that is barbaric. If that is barbaric, then marriage itself is barbaric.

My humble submission is, taking the entire circumstances into consideration this is a very wholesome provision in the Act. It is a good provision for the people who belong to the old school of thought and those who belong to the new school of thought.

Acharya Kripalani: Will mere living in the same house be enough for conjugal rights?

Mr. Deputy-Speaker: Yes.

Pandit Thakur Das Bhargava: Conjugal rights cannot be, I should say confused with cohabitation or coitus. My friend was speaking about Mahatma Gandhi. We know for the last 26 years of his life Mahatmaji was living with his wife but at the same time there was no question—in the popular sense of the term—of cohabitation. I should say, there is nothing wrong about it. It only means that the husband is in the company of his wife or the wife is in the company of her husband. Then, it is but fair that the words 'withdrawn from society' are used. These are very good words and more extensive in scope, than what is contemplated in the Parsi Marriage and Divorce Act.

Mr. Deputy-Speaker: Does not cohabitation mean living together?

Pandit Thakur Das Bhargava: As a matter of fact, cohabitation means living together. I should, therefore, think that these words are better than what is given in the Divorce Act or the Parsi Marriage Act.

Shri S. V. Ramaswamy (Salem): More dignified.

Pandit Thakur Das Bhargava: They are more extensive in meaning. They are the proper words and I support that these words must be there.

Then, section 22 is a very good section. It brings the husband and wife together. It provides an occasion for them to come together. They may go to a court and the court though not legally competent to order the reconciliation yet opportunity may be availed of by persons interested to bring about reconciliation. All the same there may be a chance for them to come together. There is nothing wrong about it and at the same time it facilitates divorce. In matters where it is difficult to prove the basis of divorce this section will make it much easier to get a divorce. So, from both these points I submit that section 22 is good.

Shri Pataskar: Are there any cases where wives have filed suits for restitution of conjugal rights?

Shri A. M. Thomas (Ernakulam): I have conducted a case.

Mr. Deputy-Speaker: Order, order. I cannot go on allowing this.

Dr. Jaisoorya: Sir, I want some clarification.

Mr. Deputy-Speaker: I am calling on the hon. Minister to speak now.

Shri Biswas: Sir, now that Acharya Kripalani is here, I shall just say a few words about the remarks he had made yesterday. He used very hard words, but the hard words he used...

Acharya Kripalani: Break no bones.

Shri Biswas: The words he used were: "barbarous, uncivilised, immoral, physically undersirable, morally unwanted, and aesthetically disgusting." I hope even such words will not shock morally the aesthetic sense of the parties to the marriage who may claim the restitution of conjugal rights. After all, as Acharya Kripalani said on a previous occasion, marriage may be for various reasons. Marriage may be for the purpose of getting offspring, for the purpose of companionship, for the purpose of doing joint social work and so on. Now, there may be occasions to enforce restitution of conjugal rights inspite of these other matters besides actual living together —I mean sexual and other matters. Supposing the wife deserts—I am using the word 'deserts' not in the legal sense, but in the ordinary way—the husband at a time when he requires her companionship, will he not have a claim for restitution of conjugal rights? That marriage might be between a widower and a widow. In calcutta, I know of a very distinguished member of the Calcutta

[Shri Biswas]

Bar, after he lost his wife at the age of 70 he married a lady of the age of 65 and they are living happily. They married only for the purpose of companionship. One was a highly literate person and the spouse also was equally literate and after he lost his first wife he thought he must have somebody to bear him company in respect of his literary work. Now, suppose for some reason or other such a wife should go away from the husband, will he not have the right for restitution of conjugal rights.

Shri Pataskar: Where is the necessity of marriage for such a purpose?

Acharya Kripalani: The hon. Minister is only supporting my contention that the sex part of it should go.

Shri Biswas: Therefore, marriage is not only for the purpose of cohabitation in the technical sense. The word 'cohabitation' in its etymological sense—co-habitation—means same residence. As a matter of fact there are cases even in the ecclesiastical courts where proceedings were instituted only about a common residence for both husband and wife, and the question was whether the husband was entitled to seek a residence for the wife and the wife was bound to come and live in the residence selected by the husband. Therefore, both in the technical and etymological sense, cohabitation means living together. Cohabitation in the technical sense is not the only purpose of the marriage.

Shri Pataskar: That is not the only, but the most important part of it.

Shri Biswas: My friend Mr. Pataskar may take that view, my friends over there might refuse to take that view.

Pandit Thakur Das Bhargava: You two old gentlemen should decide which is more important.

Mr. Deputy-Speaker: May I ask one question? If sex has absolutely no part, the companion may be a male companion.

Shri Biswas: Supposing somebody has an affinity for a person of the opposite sex, then there is nothing wrong. Inspite of his affinity, if somebody goes and disturbs that affinity will he not have the same remedy open to him?

Then, Sir, I come to the amendment moved by my hon. friend Shri Venkataraman. It is No. 325 of the consolidated list No. 4, on page 11, last one. I am prepared to accept it on behalf of Government. It says:

> In page 8, after line 46, add:
>
> "Provided that nothing contained in this section shall be construed as conferring upon any child of a marriage which is declared to be null and void or annulled by a decree of nullity any rights in or to the property of any person other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents."

Shri A. M. Thomas: We have already accepted the principle.

Shrimati Renu Chakravartty: No; it was a question of legitimacy and illegitimacy; whether children born of a marriage declared null and void should be deemed legitimate children.

Shri K. K. Basu (Diamond Harbour): Supposing a lunatic or an idiot has married. He may be physically capable of bearing children. On the grounds of his being an idiot the marriage may be declared null and void. But the children are legitimate children of their parents.

Shri Biswas: My friend Mr. Basu is a lawyer. He should know that if a marriage is declared null and void, it is as if there had been no

marriage at all. Ordinarily, therefore, any children born of such a marriage where one of the parties was an idiot or lunatic—whatever the grounds on which the marriage was declared null and void may be—will, therefore, be regarded as illegitimate. That is the position. He is quoting the case of a lunatic or an idiot. Well, that is a ground on which the marriage can be declared null and void. Now, you say that even in such a case the children will not be declared legitimate. They will be regarded as legitimate but so far as the collateral succession is concerned, that right will not belong to them. That is all that is provided for.

Acharya Kripalani: What was their fault?

Shri Biswas: The amendment was moved and accepted. I do not remember the number of that amendment, but that was in clause 18.

In clause 18, we accepted an amendment on the same principle.

Shri K. K. Basu: Here is another example. Suppose by miscalculation, being short of two months to reach the requisite age, the marriage was contracted and the parties beget children. Subsequently, someone else may be at liberty to say this and the whole marriage may be declared null and void. Under the law you want to legitimatize that. Why should you deprive them of the property rights?

Shri Biswas: If the marriage was a void marriage, under the ordinary law children of void marriages cannot succeed at all. It is enough that they are allowed to succeed to their parents, but they will not be allowed to succeed to their collaterals.

Shri K. K. Basu: Why should you restrict?

Shri Biswas: So far as the parents are concerned, the children will be entitled to inherit the property of the parents as if they were legitimate children, but....

Pandit Thakur Das Bhargava: By a process of artificial insemination they may become parents but not otherwise.

Shri Pataskar: That takes us to the time of the Pandavas.

Mr. Deputy-Speaker: The Law Minister says that he is prepared to accept one exception and he is not prepared to go further. Hon Members on this side evidently contend that when you make a breach, let it be complete, and allow them to succeed all collaterals. It is for the House to decide. We are not arguing this matter, and it is open to the Government to accept or not to accept.

Shri Biswas: I am explaining the purport of the Government, which has been made very clear by the amendment. My amendment to clause 23 is there and because it was not circulated, I will read it out:

> In page 7, after line 35, insert "and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly."

These are just the same words as in clause 22.

Mr. Deputy-Speaker: So far as clauses 22 to 26 are concerned, those amendments, which had already been handed over, and have been referred to, are treated as moved. The other amendments which have since been handed over, namely, Nos. 275 and 276 by Pandit Thakur Das Bhargava, will also be treated as moved. Another amendment just moved by the Law Minister to clause 23—(*Judicial separation*)—will also be treated as moved.

Shri Krishna Chandra's three amendments, Nos. 404 to 406 will also be treated as moved.

Shri Krishna Chandra (Mathura Distt.—West): I beg to move:

(1) In page 8, (i) omit lines 17 and 18.

(ii) in line 19, for "(iii)" substitute "(ii)".

(2) In page 8, (i) omit lines 22 to 30.

(ii) line 31, omit "further".

(3) In page 8, lines 28 and 29, omit "with the consent of the petitioner".

Mr. Deputy-Speaker: Amendments moved:

(1) In page 8, (i) omit lines 17 and 18.

(ii) in line 19, for "(iii)" substitute "(ii)".

(2) In page 8, (i) omit lines 22 to 30.

(ii) line 31, omit "further".

(3) In page 8, lines 28 and 29, omit "with the consent of the petitioner".

This group began with clause 22 and ended with clause 26, and all these amendments are before the House. It was already agreed that these amendments ought not to be put to the vote of the House at present. For the other Group, clauses 27 to 33 both inclusive, four hours' time has been allotted. If we start now, the discussion relating to this Group will not be over today and it has to go on tomorrow. I would like to know from the House when they would like to have these amendments regarding clauses 22 to 26 put to vote. We have also got a half-hour discussion to start at five o'clock. Instead of spending away this time, voting on these amendments may be taken up after the clauses 27 to 33 are disposed of tomorrow. I am only making a suggestion and I leave it for the House to decide.

Shri Venkataraman: It would be difficult to stop the debate in the process of several clauses being discussed, namely, clauses 27 to 33, and it would be more convenient if all the amendments are taken up together and voted at the conclusion of the debate on clauses 27 to 33, so that we may put all the clauses from 22 right up to 33 to the vote of the House.

Mr. Deputy-Speaker: Is it the desire of the House?

Shri M. S. Gurupadaswamy (Mysore): There seems to be some division on this. I think there will be one or two divisions on divorce also and I think it is better if this is put separately today at 4-30 p.m. before we take up the half-hour discussion.

Shrimati Renu Chakravartty: I would also plead the same thing and you can either have the voting at 4-30 p.m. or after the half-hour debate, whichever is convenient to the House. I feel there will be several divisions tomorrow and so it is better that we finish this particular group of clauses today.

Mr. Deputy-Speaker: What is the general sense of the House?

Shri V. G. Deshpande (Guna): Why not vote be taken at 2 p.m. today?

Shri Venkataraman: We are agreed that there will be no voting till 2-30 p.m. May I submit for the consideration of hon. Members opposite that after all we have some lines of thought and that is not going to cause much of confusion in the voting if all of these clauses are taken together. We are more or less committed to certain opinion in the matter and I consider that taking vote at 4-30 p.m. would be an inconvenience in this way that it will interrupt the debate. I do not know how you are going to allocate the time taken on it. We are given four hours for the discussion of clauses

27 to 33 and I do not know whether that time will be taken against the time spent on this voting also. If it is to be counted against that four-hour period, I am totally against it. It would be more convenient if the voting takes place tomorrow for all the clauses.

Shrimati Renu Charkravartty: For your information, the Business Advisory Committee made it perfectly clear that the discussion should not in any way be curtailed and therefore the four hours allotted to clauses 27 to 33 should not be taken away. If the voting takes place in between...

Mr. Deputy-Speaker: That will prolong the discussion. Assuming I start at 4-30 p.m., there is just half an hour because I have to commence the other discussion at 5 p.m. There are a number of amendments and I do not know if a division may not be called for with respect to so many of them. If perchance the voting is not over by five o'clock, what shall I do with respect to the rest?

Shri Biswas: Why not we have the voting at 2-30 p.m.? Let us finish the voting and then start the next group of clauses.

Mr. Deputy-Speaker: Very well. I take it that 2-30 p.m. is agreed.

Dr. Rama Rao: You were saying that the time allotted, namely, four hours is for clauses 27 to 33. It is for clause 27, new clause 27-A and clause 33. Clauses 28 to 32 form a separate batch and we have one hour for it.

2 P.M.

Mr. Deputy-Speaker: Yes, four hours' time has been allotted for these three clauses, 27, 27-A and 33, and clauses 28 to 32 comes under another group. The House will now proceed with clauses 27, 27-A and 33. Four hours have been allotted. Whatever time is taken for voting on the previous group of clauses 22 to 26 will not be counted as against these four hours. All hon. Members who want to move the amendments will kindly pass on chits to the Table indicating the amendments which they would like to move and thereafter, I will announce them to the House. Discussion may now proceed on clauses 27, 27-A and 33 with the amendments treated as moved.

श्री बी० जी० वर्गपांडे : उपाध्यक्ष महोदय, मैं ने धारा २७ पर २०६ नम्बर का संशोधन दिया हैं जिसके अनुसार यह धारा २७ जो विवाह विच्छेद के बारे में हैं :

> "has lived apart from the petitioner for one year or more or the parties refuse to live together and have mutually consented to dissolve the marriage."

इस का विरोध करने के लिये मैं खड़ा हुआ हूं । एक बात मैं प्रारम्भ में ही स्पष्ट कर देना चाहता हूं कि मैं विवाह विच्छेद बिल्कुल नहीं चाहता हूं और मैं इस स्पेशल मैरिज का भी विरोधी हूं, लेकिन इसी के साथ साथ मैं आपको बतलाऊं कि मेरी पूर्ण सहानुभूति उन लोगों के साथ में हैं जो इसके धोखे में अपने को ले जाते हैं और ऐसे पति पत्नी जो हमारे तथा कथित प्रगतिशील लोगों के कहने में आकर इस प्रकार का विवाह करना चाहते हैं जो अपने माता पिता, समाज और संस्कार इन सबके विरुद्ध जाकर अपने जीवन पर और आगे आने वाली पीढ़ियों पर जिनके भयंकर परिणाम होंगे, ऐसे विवाह में जाने वाले व्यक्तियों के प्रति मेरे हृदय में नितान्त सहानुभूति होने के कारण इस विवाह में आगे धोखे का निर्माण न हो, यह मैं जरूर चाहता हूं । कुछ लोग कहते हैं कि जो इसे स्पेशल मैरिज में जायें अगर उनको कुछ नुकसान भी आगे होता रहे, तो कुछ बिगड़ता नहीं हैं । समाज के ये पथभ्रष्ट जीव हैं और उनके ऊपर आगे और आपत्तियां न आयें इसके लिये सोचना और आवश्यक सुधार करना हमारा कर्त्तव्य हैं क्योंकि पति, पत्नी इसमें अपनी खुशी से जाते हैं । यह एक बड़ी खुशी की बात हैं कि इस विधेयक का नाम स्पेशल मैरिज बिल रक्खा गया हैं, विशेष विवाह विधेयक रखा

[श्री वी० जी० दंशपांडे]

गया हैं । इसके अलावा एक दूसरा बिल भी आया हैं जिसका कि नाम हिन्दू मैरिज एन्ड डाइवोर्स बिल हैं, मैं पूछना चाहता हूं कि यह विधेयक विवाह के लिये हो रहा हैं या विवाह तोड़ने के लिये हो रहा हैं, यह मेरी समझ में नहीं आता । यहां भी मैं वही चीज देखता हूं कि विवाह करने के लिये इतनी चिन्ता नहीं हैं कि वह किस तरह ज्यादा से ज्यादा दिन तक कायम रहे, बल्कि चिन्ता यह रहती हैं कि यह विवाह कितनी जल्दी टूटे, इसका विचार किया जा रहा हैं । मैं देखता हूं कि प्रारम्भ में इसमें जो धारायें थीं कि इन कारणों से विवाह विच्छेद हो सकता हैं उसमें एक नई धारा राज्य सभा में डाल दी गयी और वह धारा हैं म्युचुअल कंसेंट की, परस्पर सम्मति से यह विवाह तोड़ा जा रहा हैं, इस धारा के डालने के पश्चात् मेरी समझ में इस विवाह में किसी प्रकार की शाश्वतता और पवित्रता कायम नहीं रहती हैं और इस विवाह के बारे में मैं कहना चाहता हूं कि इस प्रकार की सुविधा देने के पश्चात् समाज के अन्दर आप ऐसी प्रवृत्तियों का निर्माण करेंगे कि लोग विवाह करने के पूर्व भी कह सकते हैं कि एक नियत काल के लिये हम विवाह करना चाहते हैं, वैसे तो इस विधेयक के अनुसार शादी के पहले तीन वर्ष में आप इस प्रकार का आवेदन कोर्ट के सामने नहीं रख सकते लेकिन मैरिज करते वक्त आप एक मियाद निश्चित् करके मैरिज कंट्रैक्ट कर सकते हैं ।

This marriage can be reduced to a companionship marriage or a marriage of convenience.

इस प्रकार का विवाह चाहने वाले जो हमारे बहुत से मित्र यहां हैं वे कहते हैं कि इस तरह के विवाह को संस्कार विहीन नहीं मानना चाहिये और धार्मिक ढंग से संस्कार के साथ इस शादी को करने का निषेध नहीं किया हैं, होम हवन आदि करके दोनों जने रजिस्ट्रार के पास अपनी शादी रजिस्टर कराने जा सकते हैं । आप जान बूझ कर उनको इस प्रकार की खुली आजादी क्यों देना चाहते हैं, यह मेरी समझ में नहीं आता हैं । हम लोग जब इस तरह की मैरिज को कंट्रैक्ट कहते हैं तो हमारे विधि मंत्री बहुत क्रुद्ध होते हैं । इस समय हमारे विधि मंत्री यहां उपस्थित नहीं हैं, थोड़ी देर के बाद यहां आ जायेंगे । उनका कहना हैं कि "It is a divine contract," उन्होंने बड़ी बड़ी अथारिटीज यहां पर कोट कीं कि यह कंट्रैक्ट बहुत जरूरी हैं लेकिन यह करार ईश्वरीय करार हैं, लेकिन मैं समझता हूं कि जिस प्रकार से आप इस विवाह को तोड़ना चाहते हैं वह सब ही बातें मेरी समझ में कोई बहुत अच्छी हों और उचित हों, ऐसा मैं नहीं समझता । इस २७ वें क्लाज के द्वारा आप कोई प्रगतिशीलता की तरफ कदम बढ़ा रहे हों, ऐसा मैं मानने को तैयार नहीं हूं । यह विधान बनाते वक्त यह बतलाया गया कि हम मोनोगेमी और डाइवोर्स ये बड़े उदार तत्व जनता के सामने रख रहे हैं । मैं चुनौती के साथ कहता हूं कि आप की मोनोगेमी और आपके डाइवोर्स से, हमारी जो लिमिटेड पोलोगेमी हैं, अपवादात्मक परिस्थिति में, उनको बधाई देता हूं, कि योग्य और अपवादात्मक परिस्थिति में बहुपत्नी विवाह हम कर सकते हैं, वह अच्छी हैं । आगे चलकर मैं इसकी एक एक धारा लेना चाहता हूं : Has since the solemnization of the marriage committed adultery यह पहली धारा इसमें दी हुई हैं । हमारी जो विवाह की कल्पना हैं उसमें हम तो ऐसा समझते हैं कि पति और पत्नी का एक उदार और दिव्य सम्मिलन इस विवाह के द्वारा होता हैं । हमारे कृपलानी जी ने इस आध्यात्मिक यूनियन, और धार्मिक जोड़ का बड़ा अच्छा वर्णन किया था और यह होने के पश्चात् मैं समझता हूं कि पति और पत्नी दोनों का उत्तरदायित्व हैं कि अगर एक से गलती हो जाय तो उसका सुधार करें और गलती करने वाले को क्षमा कर दें । दुनिया में कोई ऐसा आदमी नहीं जिसने पाप नहीं किया । जीसज क्राइस्ट जिनके नाम पर यह कानून आ रहा हैं, जीसज क्राइस्ट ने बताया कि एक मर्त्तबा एक स्त्री ने व्यभिचार

किया था तो जो लोग उसको पत्थर मारने चले थे उन्हें सम्बोधित करते हुए ईसा मसीह ने कहा कि पहले वह आदमी इस औरत को पत्थर मारे जिसने दुनिया में कभी पाप न किया हो, तो सबके हाथ रुक गये, क्योंकि यहां आकर सब प्रकार के पाप सब लोगों के हाथों से होते हैं और हो सकते हैं। अब एक दफा किसी से पाप हो गया, उसके कारण वह जो यूनियन है अथवा विवाह है वह टूट जाना चाहिये, यह मानने को मैं तैयार नहीं हूं। इस प्रकार की पवित्र यूनियन में व्यभिचार हुआ, इस व्यभिचार के कारण विवाह तोड़ना कोई उदार बात है ? मैं नहीं समझता कि इसमें एक प्रकार की रिजिडिटी है। जिस प्रगतिशील समाज की तरफ हमारे प्रधान मंत्री भारत को ले जाना चाहते हैं जहां इल्लिजिटिमेट और लिजिटिमेट चिल्ड्रन में भेद नहीं होगा, यह महान् सत्य आपने कल बतलाया, ऐसा विशाल ध्येय रखने वालों के लिये मैं समझता हूं कि इस पाप को इतना भयानक समझना यह बड़ी बुरी बात है। आगे चलकर आप देखते हैं कि इसमें ऐसा लिखा है :

Has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition.

इसके बारे में हमारे शास्त्रों में जो नियम दिये हैं यह इससे ज्यादा उदार हैं। वहां कहा गया है कि उस स्त्री के लड़का हो तो लड़का होने वाली स्त्री को इतने दिन ठहरना चाहिये, उस स्त्री की जो प्रापर्टी हो उसके मेंटेनेन्स का प्रबन्ध हो, उसे इतने दिन ठहरना चाहिये। इस प्रकार के व्यवहारिकता के नियम हमारे शास्त्रों में दिये हुए हैं। आगे चलकर उसमें लिखा है :

Is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code.

इंडियन पेनेल कोड के अनुसार जिसको सात साल से ज्यादा सजा हुई हो उस पति या पत्नी को विवाह विच्छेद के लिये इजाजत देना कि वह चाहे तो विच्छेद मांग सकता है, इस बात में कोई बड़ी उदारता है, यह मानने के लिये मैं तैयार नहीं हूं। सेक्शन डी में यह लिखा हुआ है :

Has since the solemnization of the marriage treated the petitioner with cruelty.

इसकी व्याख्या आप समझा नहीं सकते। मैं समझता हूं कि क्रूएलिटी के लिये समाज से दंड अपराधी को जरूर मिलना चाहिये, सरकार को भी उस अपराध के लिये दंड तजवीज करना चाहिये लेकिन इस बिना पर विवाह विच्छेद हो, मैं नहीं समझता कि यह कोई बहुत अच्छी और उचित बात है। इस तरह है :

Has been incurably of unsound mind for a continuous period of not less then five years immediately preceding the presentation of the petition.

हमारे कुछ लोगों ने बताया कि डाक्टरों से ऐसा सर्टीफिकेट मिल नहीं सकता, हमारे विधि मंत्री ने भी बताया कि इस प्रकार का सर्टीफिकेट मिलना करीब करीब असम्भव है, तो जिसका सर्टीफिकेट मिल न सके और जिसके बारे में डाक्टरों में मतभेद हो, इस प्रकार की चीज आप डाइवोर्स सीक करने के लिये रक्खें, यह मेरी समझ में नहीं आता। आगे चल कर सेक्शन एफ में ऐसा लिखा हुआ है :

Has for a period of not less than five years immediately preceding the presentation of the petition been suffering from venereal disease in a communicable form, the disease not having been contracted from the petitioner.

इसमें भी वही दिक्कत पेश आयेगी और जांच करने पर निगेटिव या पॉजिटिव रिजल्ट दोनों निकलने की सम्भावना है और इसमें भी साफ साफ डाक्टरी सर्टीफिकेट मिलना सम्भव नहीं है, डाक्टर ठीक ठीक बतला नहीं सकता तो मेरा कहना है कि ऐसी बातों पर आप किस तरह विवाह विच्छेद कर सकते हैं। आगे चल कर उन्होंने बताया है :

[श्री वी० जी० देशपांडे]

Has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive.

[SHRI BARMAN *in the Chair*]

यह बात तो मैं थोड़ा बहुत अंश में समझ सकता हूं। आगे चल कर आया है :

"(i) has not resumed cohabitation for a period of two years or upwards after the passing of a decree for judicial separation against the respondent;"

यह जो जुडिशल रेस्टोरेशन आफ कंजुगल राइट्स हैं उस के बारे में मैं ज्यादा नहीं बतलाना चाहता हूं। मैं इतनी ही बात बताने जा रहा था कि इस से तो हमारी पोलीगेमी ज्यादा अच्छी थी क्योंकि मोनोगेमी के पश्चात् आप यह डाइवोर्स का अधिकार खुद ही मानते हैं। इस मोनोगेमी से जो पुरानी स्त्रियां हैं उन के साथ कैसा बुरा व्यवहार होगा ? आज हमारे यहां प्रगतिशील लोग उस पुराने विवाह से छुटकारा पाना चाहते हैं। वह कहते हैं कि पुरानी स्त्री बड़ी बेढंगी थी वह कहती थी कि जन्म जन्म में हमें एक ही पति मिले। लेकिन अगर आज कल के प्रगतिशील पुरुष और स्त्री दो दो दिन में अपनी पत्नी और पति को छोड़ कर दूसरी पत्नी और पति करना चाहते हैं और इस प्रकार की प्रगति की ओर जाना चाहते हैं तो यह मुझ को मंजूर नहीं। इस के बजाय, किसी अपवादात्मक परिस्थिति में जैसे कभी किसी स्त्री को लेप्रासी हो जाय या इस प्रकार की कोई दूसरी चीज हो जाय तो पति दूसरी पत्नी कर सकता है, लेकिन शास्त्रों में दिया है कि पहली पत्नी के साथ बड़े गौरव और मान का व्यवहार करें। आप को उस के गौरव को रखना चाहिये।

मैं आप को बताना चाहता हूं कि यदि आज डाइवोर्स और मोनोगेमी की प्रथा न होती तो दुनियां में जो कुछ अन्याय हुआ वह कभी न होता। मैं आप को उदाहरण दे कर बतलाऊंगा कि नेपोलियन बोनापार्ट ने जब यह चाहा कि राजनैतिक कारण से मुझे किसी दूसरी राजकन्या के साथ शादी करना है तो अगर वहां मोनोगेमी और डाइवोर्स न होता तो जो अन्याय नेपोलियन ने सैंफाइन के साथ किया वह कभी न होता। इसी तरह यदि एडवर्ड अष्टम को दूसरी पत्नी करने का अधिकार होता तो मैं समझता हूं कि उस को अपनी गद्दी छोड़ कर कभी न जाना पड़ता। एक पत्नी प्रेम के लिये होती और दूसरी राज्य की महारानी हो कर रह सकती थी। आज यहां पर डिमाक्रेसी आने के कारण किसी राजनैतिक प्रश्न का सवाल नहीं उठता, लेकिन परिस्थिति के कारण, किसी व्याधि के कारण, किसी बीमारी के कारण अगर किसी को दूसरा विवाह करना पड़ता है, तो मैं कहूंगा कि अपवादात्मक परिस्थिति में दूसरा विवाह करना कोई बुरी बात नहीं है। लेकिन इस डाइवोर्स ला का फायदा ले कर हम देख सकते हैं कि स्त्रियों पर ज्यादा अन्याय होने वाला है। हमारी भगिनियों के ध्यान में यह बात नहीं आई है कि डाइवोर्स आज कौन लेना चाहता है, पुरुष या स्त्रियां। यहां हमारी भगिनियों ने बताया वह मुझे बिल्कुल मान्य है, यानी स्त्रियां, खास कर भारत की स्त्रियां, अपने घर को कभी नहीं तोड़ना चाहती हैं। घर को तोड़ने की बात का निर्माण आज किस के हृदय में हो रहा है ? पुरुष के हृदय में। पुरुष के हृदय में इस निर्माण के होने का यह कारण बताया गया स्त्रियों को कि उन की स्वतंत्रता के लिये यह ला या यह बड़ा भारी कानून आ रहा है। हमारी प्रगतिशील कहाने वाली पुरुष जाति के कारण हमारी भोली भाली कन्यायें और स्त्रियां धोखे में आ रही हैं। मुझे याद है कि चार महीने पूर्व एक राज्य के एक आदमी को हिन्दू महासभा ने डिफीट दिया। उस बड़े भारी आदमी ने बताया :

"I have accepted democracy because my master ordered it."

मेरे पहले राजा ने यह हुक्म दिया है कि अब डिमाक्रेसी होनी चाहिये इस लिये मैं डिमाक्रेसी स्वीकार करूंगा। इसी प्रकार से एक बेचारी

पतिव्रता पत्नी यह कहेगी कि मेरा पति हुक्म देता है कि अब मैरेज रजिस्टर होनी चाहिये इस लिये पतिव्रता होने के कारण मुझे यह मानना चाहिये कि मैं मैरेज रजिस्टर कराऊं क्योंकि पति की आज्ञा है। मैं मैरेज को रजिस्टर कराने जाऊंगी। और इस प्रकार से वह दोनों पति और पत्नी संस्कारों से हुई अपनी मैरेज को रजिस्टर्ड मैरेज में परिवर्तित कर देंगे।

उपाध्यक्ष महोदय, आप सन् १९५१ की सेन्सस रिपोर्ट को देखें। हमारे समाज सुधारकों के लेखों और भाषणों को देखने से पता चलता है कि हिन्दुस्तान में बहुपत्नीत्व बहुत बड़े परिमाण में है। लेकिन सेन्सस रिपोर्ट देखते हैं तो मालूम होता है कि हिन्दुस्तान में बहुपत्नीत्व करीब करीब नगण्य सा है। कहीं भी बहुपत्नीत्व की प्रथा बहुत बड़े परिमाण में नहीं चल रही है। आज हिन्दुस्तान में सर्वसामान्य नियम एक पत्नीत्व का ही है। इस मैरेज के रजिस्ट्रेशन से आप एक ही बात करेंगे बहुपत्नीत्व की प्रथा को तो आप हटा नहीं सकेंगे क्योंकि वह तो है ही नहीं, लेकिन दूसरे विवाह का दरवाजा आप लोगों के लिये खोल देंगे और उस के खुलने के पश्चात् पतियों को यह अधिकार मिलेगा कि वह अपनी बेचारी गरीब, भोली भाली पत्नियों को छोड़ दें और नया रिश्ता कर लें। पहले यह होता था कि अगर कोई पुरुष एडल्ट्री करता था तो उस को हम सजा देते थे, जो भी सजा एडल्ट्री की होती थी वह दी जाती थी, लेकिन अगर अब कोई एडल्ट्री करेगा तो उस को बख्शीश मिलेगी। बात यह है कि इस प्रकार से गुनाह करने वाले को, अपराध करने वाले को, बख्शीश देने का ही कानून स्त्री की स्वतंत्रता के नाम पर और स्त्रियों को अधिकार देने के नाम पर हम बना रहे हैं। बहुत से लोग यह कहेंगे कि इंग्लैंड की बात को हम मानना नहीं चाहते हैं इस बारे में। इंग्लैंड में इस प्रकार का कोई प्राविजन नहीं है, जर्मनी में इस प्रकार का कोई प्राविजन नहीं है. अमरीका में इस प्रकार का कोई प्राविजन नहीं है। आप कहते हैं कि इंग्लैंड, अमरीका और जर्मनी में यह दोष भरा हुआ है लेकिन हमारा देश प्रगति के रास्ते पर आगे जा रहा है। दोनों प्रकार के युक्तिवाद यहां किये जाते हैं। किसी भी देश में यह नहीं है इस का सच्चा कारण यह है कि विवाह के प्रति उन में एक पवित्रता की भावना है। वह यह नहीं समझते कि विवाह को आसानी से कंट्रैक्ट शब्द का प्रयोग कर के ही तोड़ा जा सकता है। विवाह के प्रति हम ने यहां पर एक बड़ी भारी हीनता की भावना प्रकट की है। एक बात में समझ सकता था थोड़े अंश तक मैं यहां तक भी जाऊंगा कि भारत की परिस्थिति में कोई कोई चीजें सेफ्टी वाल्व की तरह से आवश्यक होती हैं। यदि कोई उस का अतिरेक करे तो बहुत बुरी बात होती है। विवाह हमारे यहां एक अविच्छेद्य संस्कार है, विवाह बन्धन एक जन्म ही नहीं अनेक जन्मों तक रहने वाला होता है, यह भावना हमारे हृदय में है। लेकिन यह सर्वसामान्य नियम होते हुए भी कहीं कहीं स्त्री पर अन्याय होता है। इस से हर समाज सुधारक का दिल दुखता है, मेरा भी दिल दुखता है, मेरी यह भावना है कि समाज के कल्याण के लिये :

"Marriage being a social institution"

अर्थात् सामाजिक संस्था होने के नाते, समाज के कल्याण के लिये यदि एक आध व्यक्ति के साथ अन्याय भी हो तो उस को उसे सहन करना चाहिये। लेकिन आप तो कहते हैं कि धर्म ही बदल गया है, देश में प्रगति हो रही है। आप समाज और कुटुम्ब की तरफ नहीं देखते हैं। व्यक्तिवाद और स्वार्थपरता की तरफ हमारी जनता जा रही है। इस परिस्थिति में हर आदमी केवल अपने लिए ही सोचेगा। उसके किसी कार्य का बच्चों पर या समाज पर क्या परिणाम होगा यह वह सोचेगा नहीं। इस प्रकार की भावना होने के लिए आप ब्रिटिश ला आफ डाइवोर्स का उदाहरण दे सकते हैं। मैं थोड़ी देर के लिए यह भी मानने के लिए तैयार हूं कि समाज के लिए किसी एक व्यक्ति पर अन्याय क्यों हो। यदि आप किसी के साथ अन्याय नहीं करना चाहते तो आप केवल अपवादात्मक परिस्थिति में ही विवाह

[श्री वी० जी० देशपांडे]

विच्छेद की अनुमति दें और जहांतक सम्भव हो विवाह के स्थायित्व को कायम रखने की चेष्टा करें। लेकिन जो राज्यपरिषद ने संशोधन किया उसके अनुसार तो आप विवाह के दरजे को बिल्कुल ही तोड़ रहे हैं और आप यह कह रहे हैं कि पति पत्नी की इच्छा होते ही वे विवाह बन्धन को तोड़ सकते हैं। हो सकता है कि कभी पति पत्नी में झगड़ा हो जाय। झगड़े सब के घरों में रोज होते हैं। लेकिन क्या यह उचित है कि झगड़ा होते ही पति पत्नी यह निश्चय कर लें कि हमें साथ नहीं रहना चाहिए। पत्नी यह सोचे कि मुझे यह पति नहीं चाहिए या पति यह सोचे कि मुझे यह पत्नी नहीं चाहिए, और दोनों जाकर अपनी दरखास्त पेश कर दें।

Mr. Chairman: May I interrupt for a moment? Is it the point of the hon. Member that though the marriage has been contracted under the Special Marriage Act, there should be no divorce even in such a case?

Shri V. G. Deshpande: No, no. I say that the provisions for divorce should not be made so elastic that it may be possible for every marriage to be dissolved. By this mutual consent clause, you have opened the doors so wide that it will be possible for everybody to escape from the so-called ties of the marriage

Shri S. S. More: He would not mind adultery. But he does not want consent

Shri V. G. Despande: I do not want consent. positively. That is true.

Shri Pataskar: Do you not want it to be a ground?

Shri V. G. Deshpande: I do not want it to be a ground.

Shri Bogawat (Ahmednagar South): He wants adultery to be there. In other words, that is a boon, he says

श्री वी० जी० देशपांडे : मालूम होता है कि बहुत से माननीय सदस्यों को मेरी बात समझ में नहीं आयी। मैं यह कह रहा था कि आप विवाह को इस प्रकार से शिथिल न कर दीजिये। जो प्रावीजन्स आप विवाह विच्छेद के लिए रखें वे केवल अपवादात्मक परिस्थितियों के लिए ही होने चाहिए। मैं थोड़ी देर के लिए यह मानने को तैयार हूं कि अपवादात्मक परिस्थिति में विवाह विच्छेद की अनुमति दे दी जाय, परन्तु मैं मानता हूं कि विवाह एक निरन्तर टिकने वाली चीज है। लेकिन यदि आप इस आदर्श से नीचे आना चाहते हैं और शादी को एक बाजार की चीज बनाना चाहते हैं, एक कंट्रैक्ट की चीज बनाना चाहते हैं, तो मैं यह कहूंगा कि आप इसको ज्यादा से ज्यादा टिकने वाला कंट्रैक्ट बनाइये। मैं ने कहा था कि जब आप मकान बनाते हैं तो इस विचार से नहीं बनाते कि यह कितनी जल्दी गिर जायगा। आप यह देखकर मकान बनाते हैं कि मकान ज्यादा से ज्यादा समय तक टिका रहे। इसी तरह मेरा कहना है कि आप इस विवाह के कानून को इस दृष्टि से न बनायें कि यह किस तरह से जल्दी से जल्दी तोड़ा जा सकता है। राज्यपरिषद ने इसमें यह संशोधन किया है कि विवाह को पारस्परिक सम्मति से तोड़ा जा सकता है। इस प्रकार का नियम पाश्चात्य देशों तक में नहीं है जहां कि सैकड़ों वर्षों से डाइवोर्स का कानून चल रहा है। यह उनकी नकल की गयी है। आप इंग्लैंड को प्रगतिशील देश मानते हैं और आपका विचार है कि वे इस पर गर्व कर सकते हैं। लेकिन वहां के कानून में इस प्रकार की धारा नहीं है जैसी कि आप यहां ला रहे हैं। मेरा कहना यह है कि आप इस प्रकार की धारा लाकर विवाह के संस्कार का मखौल न कीजिये। मैं यह मानने के लिए तैयार हूं कि विवाह-विच्छेद परमिसिव होना चाहिए। आप अनेक संशोधन हिन्दू विवाह में भी करने वाले हैं। लेकिन मेरा कहना यही है कि आप इसको बहुत शिथिल न बनाइये। जैसा कल हमारे प्रधान मंत्री जी ने बतलाया और भी दूसरे सदस्यों ने बतलाया कि यह पार्लियामेंट की अनुमति से जनता के सामने एक माडल के रूप में रखा जा रहा है जिसका अनुसरण सबको करना चाहिए। वह धीरे धीरे सारे हिन्दुस्तान को प्रगतिशील बनाना चाहते हैं। लेकिन मैं समझता हूं कि वास्तव में उच्च कोटि के प्राणी बहुत थोड़े ही होंगे। हमारे

प्रधान मंत्री ने बताया कि इस विवाह के बाद जो इल्लेजिटिमेट सन्तति होगी उसका भी झगड़ा पैदा नहीं होगा। उन्होंने कहा कि उनका यह मंशा है कि लेजिटिमेट और इल्लेजिटिमेट में कोई भेद न रहे। इस भव्य आदर्श की ओर आप धीरे धीरे जा रहे हैं। ऐसा चाहते हुए आप इस प्रकार का संशोधन न स्वीकार कीजिये कि जिसके कारण विवाह संस्कार एक मखौल सा प्रतीत हो। मैं देख रहा हूं कि हम लोग इस कानून को बनाते वक्त यह विचार नहीं कर रहे हैं कि इसके परिणाम हमारे समाज पर क्या होंगे। हम लोगों से कहा जाता है कि आप पर कौन जबरदस्ती कर रहा है। चेयरमैन महोदय, हम पर जबरदस्ती नहीं हो रही है। हमने कहा कि जिनको आप इस तरह के विवाह की सुविधा देने जा रहे हैं उन बच्चों की उम्र ज्यादा करिये, लेकिन आपने उसको माना नहीं। आपने १८ वर्ष की आयु लड़की के लिए और २१ साल की लड़के के लिए रखी है। इतनी कम आयु के लोगों को आप इस प्रकार के विवाह का प्रयोग करने का अवसर दे रहे हैं और उस विवाह को तोड़ने का भी इन्तिजाम कर रहे हैं, इससे बड़े भयानक परिणाम होने की सम्भावना है। आप इस इमारत को इतनी कमजोर नींव पर बना रहे हैं कि यह पहली बरसात आने पर ही ढह जायगी। आपको इस प्रकार का विवाह का आदर्श जनता के सामने नहीं रखना चाहिए। और इसलिए, चेयरमैन महोदय, मैं आपके द्वारा इस सदन से प्रार्थना करूंगा कि बाकी और जो कुछ सुधार आप करना चाहें करें लेकिन विवाह विच्छेद की अनुमति केवल अपवादात्मक परिस्थिति में ही दें। इस प्रश्न पर अब आखिरी समय में भी विचार कर लें। विशेष अवस्थाओं में ही विवाह तोड़ने का अधिकार दें। आप इंग्लैंड के कानून को देखिये। वहां अगर यह पता चल जाय कि काल्यूजन से डाइवोर्स करने की चेष्टा की जा रही है तो डाइवोर्स नहीं दिया जाता क्योंकि उनकी यह नीति है कि विवाह तोड़ने का सिद्धान्त नहीं रहना चाहिए। समाज की यही नीति रहनी चाहिए कि विवाह कायम रहे और वे दोनों मिल कर विवाह नहीं तोड़ सकते क्योंकि विवाह केवल उन दोनों की ही बात नहीं है। विवाह से बच्चों का भी सम्बन्ध होता है। उसके परिणाम बच्चों पर और समाज पर पड़ते हैं। विवाह जिस प्रकार से अनुमति से किया जा सकता है उसी प्रकार आपस की अनुमति से तोड़ा नहीं जा सकता क्योंकि उसमें एक तीसरा पक्ष भी होता है। वह पक्ष समाज है। इसलिए आपको यह चीज दोनों की सम्मति पर नहीं छोड़ देनी चाहिए। यदि आप यह सामाजिक नीति रखना चाहते हैं कि मां बाप की इच्छा के बिना भी वे विवाह कर सकते हैं तो इसे आप रखिये लेकिन वे चाहे जब विवाह तोड़ सकें इसकी अनुमति नहीं देनी चाहिए इतनी ही मेरी प्रार्थना है।

Shri K. R. Sharma (Meerut Distt.—West): In my opinion, the provisions embodied in clause 27 of this Bill are monstrous inconsistencies. I have been all the time listening to the 'progressive' Members...

Shri Tek Chand: Self-styled progressive.

Shri M. S. Gurupadaswamy: Pseudo-progressive

Shri K. R. Sharma: I have been listening to speech after speech that has been made here, which shows that the marriage contemplated under this Bill is a marriage by contract, a marriage by sweet consent.

[MR. DEPUTY-SPEAKER *in the Chair*].

If that is so, why should we ignore the corollary that follows from such a marriage? When we are giving the right of marriage to all concerned at their sweet will and consent, why should we put so many impediments to divorce as have been provided in clause 27 of this Bill? For instance, when a party to the marriage has not the consent to remain with the other party, why should that party be compelled to wait for five years, when the other party is suffering from leprosy or venereal disease, or for three years, when the other party has been convicted and sentenced to seven years' imprison-

[Shri K. R. Sharma]

a party to wait. When it is a marriage by consent, and when the consent is at any time withdrawn, why should not that party be enabled to file a suit for divorce at the time the consent is withdrawn?

It will be a tyranny on the party withdrawing the consent to ask him or her to wait for five long years. So I would appeal to the hon. the Law Minister to consider as to why this provision should not be taken out of the Bill, so that every party who withdraws his or her consent is enabled to file a suit for divorce at once.

Mr. Deputy-Speaker: Is the hon. Member concluding now?

Shri K. R. Sharma: I want to continue.

Mr. Deputy-Speaker: He may do so after I take the votes in regard to clauses 22 to 26 along with the amendments that have been moved in relation to them. I will first take up clause 22. There is an amendment, No. 322. Is she pressing that amendment?

Shrimati Renu Chakravartty: Yes.

Mr. Deputy-Speaker: The question is:

In page 7, for clause 22, substitute:

"22. *Desertion.*—When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, for a period of two years, the aggrieved party may apply to the district court for judicial separation."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 22 stand part of the Bill."

The Lok Sabha divided: ***Ayes*** **161;** *Noes.* 47.

Division No. 3] AYES 2·30 P.M.

Abdullabhai, Mulla
Abdus Sattar, Shri
Achal Singh, Seth
Achuthan, Shri
Agarwal, Shri H. L.
Agrawal, Shri M. L.
Altekar, Shri
Ansari, Dr.
Azad, Shri Bhagwat Jha
Balmiki, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Bhagat, Shri B. R.
Bharati, Shri G. S.
Bhargava, Pandit Thakur Dass
Bhartiya, Shri S. R.
Bhatt, Shri C.
Bhawanji, Shri
Bidari, Shri
Bogawat, Shri
Bose, Shri P. C.
Brajeshwar Prasad, Shri
Brohmo-Choudhury, Shri
Chaliha, Shri
Chandak, Shri
Chaturvedi, Shri
Chaudhary, Shri G. L.
Chavda, Shri
Chettiar, Shri Nagappa
Chinaria, Shri
Choudhuri, Shri M. Shaffee
Dabhi, Shri
Das, Shri B. K.
Das, Shri K. K.
Das, Shri Ramananda
Das, Shri S. N.
Deb, Shri S. C.
Desai, Shri K. N.
Deshmukh, Shri K. G.
Deshpande, Shri G. H.
Dholakia, Shri
Dhusiya, Shri
Digambar Singh, Shri
Dube, Shri Mulchand
Dube, Shri U. S.
Dubey, Shri R. G.
Dutta, Shri S. K.
Dwivedi, Shri M. L.
Eacharan, Shri I.
Elayaperumal, Shri
Gadgil, Shri
Gandhi, Shri M. M.
Gandhi, Shri V. B.
Ganga Devi, Shrimati
Gohain, Shri
Gounder, Shri K. S.
Gupta, Shri Badshah
Hazarika, Shri J. N.
Heda, Shri
Hem Raj, Shri
Hembrom, Shri
Hukam Singh, Sardar
Hyder Husein, Ch.
Iqbal Singh, Sardar
Jajware, Shri
Jangde, Shri
Joshi, Shri Liladhar
Joshi, Shri M. D.
Kakkan, Shri
Kale, Shrimati A.
Karmarkar, Shri
Kasliwal, Shri
Katham, Shri
Keskar, Dr.
Khedkar, Shri G. B.
Khongmen, Shrimati
Kirolikar, Shri
Krishna, Shri M. R.
Krishna Chandra, Shri
Kureel, Shri B. N.
Kureel, Shri P. L.
Lallanji, Shri
Laskar, Shri

Mahodaya, Shri
Malaviya, Shri K. D.
Malliah, Shri U. S.
Malvia, Shri B. N.
Malviya, Shri Motilal
Mascarene, Kumari Annie
Masuodi, Maulana
Masuriya Din, Shri
Maydeo, Shrimati
Mehta, Shri B. G.
Mishra, Shri Bibhuti
Mishra, Shri M. P.
Misra, Shri R. D.
Mohd. Akbar, Sofi
Mohiuddin, Shri
Morarka, Shri
Nathwani, Shri N. P.
Nehru, Shrimati Uma
Pant, Shri D. D.
Parikh, Shri S. G.
Patil, Shri Kanavade
Patil, Shri Shankargauda
Pawar, Shri V. P.
Pillai, Shri Thanu
Prabhakar, Shri Naval
Raghubir Sahai, Shri
Raghunath Singh, Shri
Raghuramaiah, Shri
Raj Bahadur, Shri
Ram Dass, Shri
Ram Saran, Shri
Ramaswamy, Shri P.
Ramaswamy, Shri S. V.
Ranbir Singh, Ch.
Rane, Shri
Raut, Shri Bhola
Rup Narain, Shri
Sahu, Shri Rameshwar
Saigal, Sardar A. S.
Sankarapandian, Shri
Satish Chandra, Shri
Sewal, Shri A. R.
Shahnawaz Khan, Shri
Sharma, Pandit Balkrishna
Sharma, Shri D. C.
Sharma, Shri K. R.
Shastri, Shri Algu Rai
Shobha Ram, Shri
Siddananjappa, Shri
Singh, Shri Babunath
Singh, Shri H. P.
Singh, Shri L. Jogeswar
Singh, Shri M. N.
Sinha, Dr. S. N.
Sinha, Shri A. P.
Sinha, Shri B. P.
Sinha, Shri Nageshwar Prasad
Sinhasan Singh, Shri
Subrahmanyam, Shri T,
Suriya Prasad, Shri
Tek Chand, Shri
Tewari, Sardar R. B. S.
Thomas, Shri A. M.
Tivary, Shri V. N.
Tiwari, Pandit B. L.
Tiwari, Shri R. S.
Tripathi, Shri K. P.
Tripathi, Shri V. D.
Uikey, Shri
Upadhyay, Pandit Munishwar Datt
Upadhyay, Shri Shiva Dayal
Upadhyay, Shri S. D.
Vaishnav, Shri H. G.
Vaishya, Shri M. B.
Verma, Shri M. L.
Venkataraman, Shri
Vyas, Shri Radhelal

NOES

Achalu, Shri
Basu, Shri K. K.
Bhakt Darshan, Shri
Buchhikotaiah, Shri
Chakravartty, Shrimati Renu
Chatterjea, Shri Tushar
Chowdary, Shri C. R.
Chowdhury, Shri N. B.
Das, Shri B. C.
Dasaratha Deb, Shri
Deshpande, Shri V. G.
Gadilingana Gowd, Shri
Gam Malludora, Shri
Gidwani, Shri
Gopalan, Shri A. K.
Gupta, Shri Sadhan
Gurupadaswamy, Shri M. S.
Jaisoorya, Dr.
Jayashri, Shrimati
Jhunjhunwala, Shri
Kripalani, Acharya
Lal, Shri R. S.
Majhi, Shri Chaitan
More, Shri S. S.
Mukerjee, Shri H. N.
Nanadas, Shri
Nayar, Shri V. P.
Palchoudhury, Shrimati Ila
Pandey, Dr. Natabar
Raghavachari, Shri
Ramasami, Shri M. D.
Ramnarayan Singh, Babu
Randaman Singh, Shri
Rao, Dr. Rama
Rao, Shri K. S.
Rao, Shri P. R.
Rao, Shri P. Subba
Rao, Shri Mohana
Reddi, Shri B. Y.
Reddi, Shri Eswara
Reddy, Shri R. N.
Rishang Keishing, Shri
Saksena, Shri Mohanlal
Sen, Shrimati Sushama
Shastri, Shri B. D.
Singh, Shri T. N.
Swami, Shri Sivamurthi

The motion was adopted.

Clause 22 was added to the Bill.

Mr. Deputy-Speaker: The hon. Law Minister moved an amendment to clause 23. It is only a formal amendment. I find several hon. Members were moving about in the House. Hon. Members will once again look into the rules. When the person occupying the Chair is on his legs, no other hon. Member should stand; if he is standing he should sit wherever he is standing.

The question is:

In page 7, after line 35, insert:

"and the court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly."

The motion was adopted.

Mr. Deputy-Speaker: Regarding the other amendments, amendments Nos. 383 and 384 appear to be for clause 24 and not for clause 23. I would like to ask hon. Members which of the amendments they want to be put to the vote of the House. The amendments are 139, 140, 141, 380, 381 and 382.

Shrimati Jayashri: I want my amendment No. 85 to be put to vote.

Mr. Deputy-Speaker: Yes.

The question is:

In page 7, for lines 34 and 35 substitute:

"(b) on the ground of failure of cohabitation, and desertion for a period of two years."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, omit lines 34 and 35.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, for lines 34 and 35, substitute:

"(b) on the ground that one party refuses to live with the other party and to carry out the obligations of marriage."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, after line 35, insert:

"(c) on the ground that one of the parties has been suffering from leprosy or from venereal disease in a communicable form."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, lines 32 and 33, omit "on which a petition for divorce might have been presented."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 38, for "on the application by petition" substitute "on the written application".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 40, for "petition" substitute "application".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, for lines 29 to 35, substitute:

"23. *Judicial separation.*—(1) A petition for judicial separation may be presented to the district court either by the husband or the wife on any of the grounds specified in section 27 (other than the grounds specified in clauses (i) and (j) thereof) on which a petition for divorce might have been presented."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Mr. Deputy-Speaker: Amendment No. 509 is one which the Draftsman will take note of. I shall put amendments 383, 384 and 198 to vote.

The question is:

In page 7, lines 47 and 48, for "(c) and (d)" substitute "(c), (d) and (f)".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 8, omit lines 9 to 11.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 8, line 1, for "impotent" substitute:

"in the case of a male, impotent and in the case of a female frigid".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 24 stand part of the Bill."

The motion was adopted.

Clause 24 was added to the Bill.

Mr. Deputy-Speaker: The question is:

In page 8, lines 26 and 27, for "from the date of the marriage" substitute "from the date of the knowledge of the facts alleged;".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 8,—

(i) omit lines 17 and 18.

(ii) in line 19, for "(iii)" substitute "(ii)".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 8,—

(i) omit lines 22 to 30

(ii) line 31, omit "further".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 8 lines 28 and 29, omit "with the consent of the petitioner".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 8, lines 19 and 20, for "marriage was obtained by coercion or fraud," substitute "marriage was not obtained by free consent,"

The motion was negatived.

Mr. Deputy-Speaker: The question is

In page 8, for lines 28 to 30, substitute:

"(c) that marital intercourse has not taken place since the discovery by the petitioner that the respondent was at the time of marriage pregnant by some person other than the petitioner"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 25 stand part of the Bill."

The motion was adopted.

Clause 25 was added to the Bill.

Mr. Deputy-Speaker: The question is:

In page 8, after line 46, add:

"Provided that nothing contained in this section shall be construed as conferring upon any child of a marriage which is declared to be null and void or annulled by a decree of nullity any rights in or to the property of any person other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not

[Mr. Deputy-Speaker]

being the legitimate child of his parents."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 8, lines 41 and 42, for "section 24 or section 25", substitute:

"section 24 on any of the grounds mentioned in clauses (a), (b), (c) and (e) of section 4 or section 25 on the ground mentioned in sub-clause (iii) of section 25,".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 26, as amended, stand part of the Bill".

The motion was adopted.

Clause 26, as amended, was added to the Bill.

Clauses 27, 27A and 33

Mr. Deputy-Speaker: The House will now resume discussion of clauses 27, 27A and 33. The hon. Member who was in possession of the House will continue his speech.

Shri K. R. Sharma: After hearing the speeches of the so-called progressive Members, both men and women, of the House, the impression created in my mind was that marriage is being regarded more and more as a matter of contract and convenience between the parties. There has therefore been a consequent weakening of the marriage tie. If that is so, there is no getting away from the fact that consent obtained at the time of marriage is not going to remain for a long time and there will be bickerings in the family life. So, why should not the parties by their consent be allowed to have divorce as and when they like.

For example, if a man keeps a woman private secretary, goes about with her, sees cinemas with her and comes back to his house at late hours and reserves only the time from 1 A.M. to 5 A.M. for his wife, why should not the wife be entitled to claim divorce? Why should she wait until adultery is committed, or why should she wait to avail of the other provisions of this clause. In the same way if the husband says to the wife: "Please do not apply lipstick; please do not expose yourself to the evil looks of others", and she does not desist, why should not the husband be entitled to claim divorce? My humble submission is that when the consent is withdrawn at that very moment the party should be entitled to claim divorce. I would appeal to the Law Minister to consider this point and to liberalise the provisions contained in this clause 27.

1.43 P.M.

Shri Shankargauda Patil (Belgaum South): Sir, I have heard with attention the grounds alleged against section 27 and I think the grounds made out are as unrealistic and uninspiring to carry any weight. Even taking the marriage as sacrament and a holy union, as men of this world and as men of practical commonsense we must pay more attention to what happens in this world rather than what happens in the other world. According to the old school, marriage is said to be a holy union. It enables the parties to perform some ceremonial functions and formalities which would bring salvation to the couple in the other world. Now, Sir, such a marriage brought about with the best of motives, if it is found to be unworkable in actual life, there is no use in retaining such an institution which is of no use to either parties. We know that the family is very vital unit in our society and the progress of society depends on the efficient and harmonious working of this unit. If the couple cannot pull on together, we can imagine that there will be very disastrous consequences to the working of this family unit which may have serious repercussions on the development of society. Therefore, there could be logically no objection

to allowing divorce in this piece of legislation.

Now, coming to the provisions that have been allowed for the granting of divorce, the main point that has been attacked is divorce by mutual consent. You will see that if this provision is not there are so many formalities prescribed for getting a divorce. The parties who desire not to live together and to consummate their marriage will have to pass through all the troublesome and cumbersome procedure of making allegations and then trying to prove them by substantial evidence. What is the use of driving those parties to go through all this cumbersome procedure when they do not want to pull on together? Therefore, this divorce by mutual consent is necessary and this is a necessary provision when the principle of divorce is admitted. Therefore, I support that provision.

There are other objections made to the period allowed for so many grounds before a party can go to a court of law and ask for a divorce. There can be legally no objection to the certain period allowed. During the period allowed certain changes may be made here and there and the parties may come to some understanding. This period is, therefore, quite necessary and such a provision should be there. In order to give a chance to the party to conciliate between themselves and see whether the marriage could be made workable by the act of the parties concerned or in some other ways, there must be some period fixed before they could go to a court of law. The parties must wait for some time before taking the matter to the court and therefore this provision is quite necessary. It may help to make the marriage workable and see that the grounds of objection between the parties may be eliminated by lapse of time.

Therefore, I wholeheartedly support the principle of divorce as well as the many grounds of divorce provided for in this legislation.

Acharya Kripalani: Sir, I have given an amendment to clause 27—No. 201. It is a very small but important amendment. I want that instead of 'committed adultery' it should be 'committed acts of adultery'. My reason for this is very obvious. It is quite possible that a man or woman may commit a stray mistake and that mistake should not be taken as a proof of his or her character. Character can never be decided by an isolated lapse, but if there is repetition of such a lapse then it would be considered that the man's character is vitiated and therefore, that may be the ground for divorce. Any psychologist of ordinary intelligence would tell us that there are some times, that men and women suffer from occasional aberrations and these are not of a lasting nature. Sometimes the parties that are subject to these may repent of them, at leisure and in saver moments Therefore, I submit that this provision 'committed adultery' gives no opportunity for a person to make amends for his stray lapses. He must be allowed to rehabilitate himself. It is, therefore, that I have suggested this amendment, that 'acts of adultery' when they are proved should be a cause for divorce and not otherwise. Even in the Criminal Procedure Code there are criminals and there are habitual criminals. Criminals who have committed an offence for the first time are treated leniently and habitual criminals are treated with greater rigour. I therefore, submit, Sir, that this will b more in accordance with human psychology, it will be more in accordance with the spirit of the time and it will be progressive if we add these words:

The whole object of this Act is to make it modern, to make it scientific, to square with the knowledge of human nature that we have got by the advance of social sciences. I submit that psychologically it is wrong to suppose that because one act of lapse has been committed, therefore marriage should stand annulled. I hope

[Acharya Kripalani]

the Congress Party would accept this amendment.

Shri Sadhan Gupta: Sir, I was not surprised to find such bitter opposition from Mr. Deshpande to clause 27 which, I think, almost every section of the House has accepted as a very just clause. What I was surprised about, however, was certain arguments which went to support absurd things including some arguments to justify the practice of polygamy or the recognition of the right of polygamy that has been recognised, unfortunately, in our country. He has pleaded expediency for it and I would not answer his arguments at length except to say that his argument about the necessity for polygamy on the ground of expediency is an argument in a barbarous society. We in this Parliament; we in modern India can have no sympathy with such an argument.

Now, I am very much allured by a metaphor introduced by Mr. Deshpande. He has said, you are not providing for the construction and the permanency of a building; you are only providing for destruction of the building. That is a metaphor he used, not a happy metaphor, but I am willing to take his metaphor as far as it goes and willing to meet his argument. What we are suggesting here is not that every couple will be compelled to divorce. It is a permissive legislation that we are enacting here. We are providing for a simple procedure for marriage. What we are providing for in clause 27 is that if the marriage happens to fail in its objects, if the couple find that they cannot pull on well, if they find that in spite of their best efforts they cannot live together, if a husband or wife finds that his or her spouse is acting in such a manner that it is impossible to live together, if they find that they have become so unbearable to each other that they both agree to dissolve their conjugal ties, then we have decided or rather the sense of the House is that there should be no interference with that right. The concept of sacramental marriage, marriage being sacred and indissoluble, etc. I say with great respect, is absolutely an outmoded concept. The only sacredness in a marriage is what the couple are prepared to recognise and no further. I can quite understand that, under any law which you may prescribe, however easy the divorce laws may be, however simple the procedure of marriage may be, perhaps 95 out of 100 or at least 85 to 90 out of 100 are going to be happy marriages, and going to last for the life of at least one of the spouse, and so the result is that ordinarily, every marriage is recognised as some sort of sacrosanct by the spouse. They fulfil their obligations and no great difficulties arise in the way of carrying on a happy married life and in that sense, run their family on a very rational basis, on a very reasonable basis, and, you can call it from a poetical point of view, on a very pure and wholly sacred basis. But, I do not see what sacredness there is in a marriage which has become unbearable. I do not see what sacredness there is in a marriage when one of the spouse repeatedly commits infidelity, I do not see what sacredness there is in a marriage when one of the spouse lives for years away from the other spouse and refuses to fulfil the conjugal duties to the husband or to the wife. What sacredness is there in a marriage when because of the insanity or idiocy or loathsome disease of a spouse, it is impossible to associate with that spouse? There is no sacredness. To say that it is sacred, to say that it is sacrosanct is nothing but an infliction of tyranny on the spouse. We on this side of the House are determined to look at it from that point of view and not to be diluted by any false notions of sacredness. Let sacredness be the business of the spouses who marry. Let not that sacredness be interposed by society on absolutely unwilling spouse. Therefore, this metaphor of destruction of the building is absolutely out of place. If in Mr. Deshpande's metaphor we are providing for the construction of the building

in the sections which permit marriage, I would say that as far as divorce is concerned, it is not a question of destruction of the building. I would ask Mr. Deshpande to go further afield on the basis of the metaphor and look at the municipal laws. The municipal laws deal with building of houses and what they provide is how to build a house, what kind of specifications and what kind of measurements to adhere to, how much space to leave at the front and at the back and so forth, in order to make the building look proper, but most of them are concerned with what to do when a building has become so dilapidated that it cannot be allowed to exist. The divorce clause is merely a clause of that kind. The building will be constructed, there is no difficulty about it. The couple will set up usually a very nice and beautiful edifice, an edifice which brings into itself all the love and affection in the world, all the care that a beautiful home bestows on the children, and such a beautiful home provides for the couple happiness, but when this particular edifice has become untenable, when it has become vitiated by faithlessness, when it has become vitiated by loathsomeness of disease, when it has become vitiated by unsoundness of mind, there is every case for demolishing the building, just as in the municipal laws a dilapidated building is not tolerated, on any ground, that it should still exist. Similarly, this particular edifice, if Mr. Deshpande will have his metaphor that way, must be demolished at the option of the party which does not want to continue it.

I come to Mr. Deshpande's criticism of two clauses, one is the adultery clause and the other the mutual consent clause. On the adultery clause, Mr. Deshpande gave a very interesting argument that formerly adultery was being punished or penalised, but now it is going to be a boon because by commit ing adultery, you can have another spouse. May I remind Mr. Deshpande that it is nothing of the kind. You might commit as much adultery as you like, but if the other spouse insists or not consenting to divorce, no amount of adultery is going to get you another spouse. We have been very careful to provide for one spouse, and one spouse alone, and not, as Mr. Deshpande would want, to provide for a multiplicity of spouse in order to please the adulterer. There is no question of *bakshish* in adultery. Adultery is punishable under the Indian Penal Code. Only if the other spouse thinks that by reason of adultery he or she has been so much outraged that it is no longer possible for him or her to continue with the other spouse, he or she is free to get a divorce. It is on that ground that I would also oppose Acharya Kripalani's amendment that repeated acts of adultery must be committed for a divorce to be granted. I can quite see that if there is a mere mistake, if there is some kind of a sudden moral lapse and if one casual adultery is committed, in most cases the other spouse will be ready to condone it. In most cases that will not lead to the destruction of the home because there are children to think about; there are so many things to think about. If, in spite of all that, the other spouse is of the opinion that this one single instance of adultery is a sufficient insult, is a sufficient outrage on her sense, then he or she should be at liberty. It should be judged by the spouse concerned; it is no business of the Parliament to tell him what should be considered as an outrage. Normally I take it that one casual act of adultery committed by a spouse does not result in disruption but let us leave it to the spouse, let us leave it to the parties concerned; if they feel they can continue, they are at liberty to do so; if they feel that they could not continue let them dissolve it.

The other clause is the mutual consent clause. As already stated, the parties should live together only as long as they think they can live together. Therefore, the mutual consent clause is but a logical recognition of this fact. I know it does away with the concept that there is sacredness and

[Shri Sadhan Gupta]

all that in a marriage, the concept of sacredness which was sought to be unduly enforced. Let the sacredness be the concern of the parties and if they think that there is nothing sacred about it let them dissolve it. Why should we stand in the way? We could rely on the parties to decide what is best for them. We are entitled to depend upon the sense of responsibility in human beings and we are entitled to assume that this kind of clause will not lead to rapid dissolution of marriages.

United States, I believe, is supposed to be one of the worst sinners in this respect. There are supposed to be four divorces in a minute—that is, I believe, the ratio in the United States. But if you compare it to the number of marriages even in the United States, you will find how insignificant the proportion is. Therefore, in our country it is going to be even less. That we know because our society is different. We have not yet developed the samivoluptuous society which the decadence of capitalist society in Americans has given rise to. We have a greater sense of responsibility than the sections in the United States where it prevails.....

Mr. Deputy-Speaker: Is it necessary to condemn a whole nation like this?

Shri Sadhan Gupta: I said 'sections', advisedly.

We must remember that it is not these laws which create social laxness. What creates social laxness is a kind of social development. If that sort of social development takes place in India then no law would prevent looseness in society. As a matter of fact, expenses of the law would give rise to a much worse evil than a logical or reasonable law.

Mr. Deputy-Speaker: The number of hon. Members intending to speak is large and the whole time is four hours. Therefore, I will put....

Shri Venkataraman: I suggest that the time limit may be put at ten minutes.

Mr. Deputy-Speaker: Ten minutes will be the maximum.

Shri Sadhan Gupta: I will now speak on the amendments of which I have given notice....

Mr. Deputy-Speaker: The hon. Member will kindly be brief.

Shri Sadhan Gupta: Yes, Sir. I have given notice of amendments Nos. 436, 438, 440, 443 and 444. These are in relation to clauses permitting divorce on grounds of desertion, incurable unsoundness of mind, suffering from venereal disease in a communicable form, suffering from leprosy and not being heard of for seven years. My submission is this in each case. I have sought to introduce the period of two years in respect of the period proposed in clause 27. Whether it is a case of desertion or incurable unsoundness of mind or venereal disease or leprosy I do not see why the other spouse should be compelled to wait for five years. If you want to give time for cure, if you want to give time for return or a reconciliation in the case of desertion, two years, I believe, is sufficient. A deserter is supposed to see the enormity of his offence in the space of—I think—six or eight months or at the most, in one year. The two years I have provided is ample time for making the deserter return. As regards unsoundness of mind, if for two years a mad man is not cured, I do not see that there is any hope of curing him in five years...(*Interruptions.*) As regards venereal disease, I should say that if it is in a communicable form, the wife or husband should not be made to live with each other even for a day but I have provided two years in deference to conservatism and so is the case of leprosy. Now the last thing is about not being heard of. The hon. Law Minister was very touchy about the remarks that he was following the English law. This is obviously English law—an English law without sense. Seven years were provided some two centuries ago. Let us remember that the

English people were a sea-faring people. They used to go abroad very often and in those days they used to sail in sailing ships and often get ship-wrecked in desert islands without any hope of return. In those days there was every reason for prescribing seven years' time for a nation the children of which had occasion to go abroad very frequently. What is the sense in providing for seven years, now? I think in a week's time you can have a letter from anywhere in the world. In two or three months you can travel from any place in the world to any other place in the world even if you want to travel cheaply. Therefore, there is no sense in providing that you must not be heard of for seven years before you are presumed dead or that kind of thing? I have provided for two years with very great qualms in my conscience because even two years seem to be absolutely unreasonable because I think in two months' time a person can make himself heard of wherever he may be in the world. Therefore, I strongly oppose this clause providing for a length of time, namely, being unheard of for seven years.

Several Hon. Members *rose*—

Mr. Deputy-Speaker: Shri B. D. Shastri.

Some Hon. Members: We have given so many amendments.

Mr. Deputy-Speaker: Merely because one group has given many amendments, it does not mean that they will only be called. There are various groups here and opportunity should be given to all to express their opinion. It does not mean that I can call all the 500 Members. Each Member will have five minutes.

Shri Pataskar: Some of us have not given amendments; but we would like to speak.

Mr. Deputy-Speaker: They have to speak on the clause. Let not the hon. Members be under the impression that merely because they have given amendments, they are entitled to speak. I have called Acharya Kripalani. He is the leader of a Party. He has written to me that he has omitted to speak on certain amendments. I am considering the desirability of giving him another opportunity. There are other organised groups. There must be a spokesman of those groups.

Dr. Jaisoorya: There are unattached Members also.

Mr. Deputy-Speaker: Yes. Members have to speak generally on the clause. They may have to oppose, etc.

Shri M. S. Gurupadaswamy: We are not on any clause; we are only on the amendments.

Mr. Deputy-Speaker: I am only saying that merely because an hon. Member has given an amendment, he need not think that he will be called

श्री सिंहासन सिंह (जिला गोरखपुर दक्षिण) : उपाध्यक्ष महोदय, मैं जानकारी के लिये आपसे जानना चाहता हूं कि क्या केवल उन्हीं व्यक्तियों को बोलने का अवसर दिया जायेगा जिन्होंने अपने संशोधन पेश किये हैं या औरों को भी बोलने का अवसर प्रदान किया जायेगा ?

उपाध्यक्ष महोदय : सबको दिया जायेगा, सब्र रखिये ।

श्री बी० डी० शास्त्री (शाहडोल सिद्धि) : आदरणीय उपाध्यक्ष महोदय, यह विधेयक और खासकर इसमें जो सेक्शन २७ हैं यह बहुत ही विचारणीय हैं । इसके विरोध में जो २०२ से २०७ नम्बर तक संशोधन उपस्थित किये गये हैं, मैं उनके समर्थन में अपना मंतव्य उपस्थित कर रहा हूं । वस्तुतः इस विधेयक के द्वारा देश में हम एक बहुत बड़ा परिवर्त्तन करने जा रहे हैं । इस परिवर्त्तन के बावजूद भी देश की क्या स्थिति होगी, इस पर भी गम्भीरता से हमें विचार करना चाहिये । यह जो संशोधन उपस्थित किये गये हैं इनकी बुनियाद यह है कि भारतवर्ष एक बड़े आदर्श का देश रहा है ।

[श्री बी० डी० शास्त्री]

कम से कम महिला जगत के लिये या पति पत्नी के प्रेम के लिये जो आदर्श इस देश का था, उसकी तुलना में आजतक कोई भी देश नहीं आ सका । वस्तुतः देखा जाय तो यह लगता है कि देश में एकता कहीं नहीं है, देश में वर्ग वाद है, देश में सामाजिक स्थिति ठीक नहीं, देश में सम्प्रदायवाद है, इसलिये आपस में परस्पर एकता की कमी है, पर यदि हम वस्तु स्थिति के आधार पर देखें कि कहीं एकता को शरण मिली है या नहीं तो देखते हैं कि यदि कहीं एकता है तो वह दांपत्य प्रेम में पति पत्नी के बीच में विद्यमान है, भविष्य में एकता का निर्माण करने के बजाय और अगर हम डाइवोर्स का सिस्टम लागू कर दें तो यह जो रही सही एकता है थोड़ी पति पत्नी के बीच में है, उसको भी हम समाप्त करने जा रहे हैं ।

दूसरी बात यह है कि हर देश का अपना अलग अलग साहित्य होता है । हमारे देश का भी एक बहुत पुराना साहित्य है और उस पुराने साहित्य में जो आज हजारों वर्षों से चला आ रहा है आज भी उस की प्रगति उसी रूप में है । हम देख रहे हैं कि हमारे देश के साहित्यकारों ने साहित्य में नवरस का निर्माण किया है और नौ रसों में श्रंगार रस को प्रधानता दी है और श्रंगार रस को प्रधानता इसलिये दी है कि उसमें रति का स्थायित्व होता है । श्रंगार में रति जिसका पर्यायवाची शब्द है प्रेम स्थायी है । साहित्यकारों ने बताया है कि वह रति केवल पति, पत्नी के बीच में है । पति पत्नी के बीच में हुए श्रंगार पर आजतक के सारे साहित्यकार ने अपनी रचनाएं की हैं और उसका आश्रय लिया है और साहित्य की सेवा की है, यदि आज हम वहां से भी प्रेम को हटा दें याद रखिये प्रेम वहीं पैदा होता है जहां भय नहीं होता, जहां भय होता है वहां प्रेम नहीं होता । तो जब कि पहले ही से इस क्लाज की वजह से यह भय बना रहेगा कि पता नहीं कितने दिन हमारा इनका सम्बन्ध कायम रह सकेगा, एक वर्ष बाद, दो वर्ष या तीन वर्ष बाद कब एक दूसरे से अलग हो जायेंगे तो जहां इस प्रकार का एक डर और शंका बनी रहेगी वहां प्रेम नहीं रह सकता और जहां प्रेम को स्थान नहीं वहां श्रंगार नहीं और जहां श्रंगार नहीं होगा वहां साहित्य क्या उन्नति करेगा और फल यह होगा कि धीरे धीरे उस देश का सारा साहित्य नष्ट हो जायेगा। इसके अलावा हम देखें कि पुराने रीति रिवाज जो कि अच्छे सिद्ध हुए हैं उनको देश का नव निर्माण करने की मिथ्या धुन में अपना और अपने देश और समाज का बड़ा अहित न कर बैठें । वैदिक रीति से प्राचीन परम्परा से सम्पन्न हुए विवाहों के समय में यह मंत्र उच्चारण किया जाता था :

"ऊं समञ्जतु विश्वेदेवाः समापो हृदयानि नौ"

अर्थात्, हे देवताओं तुम्हारे सामने हम पति पत्नी के दो हृदय आपस में मिलकर पानी के समान एक हो जांय । हर चीज की मिलावट को तो आप अलग कर सकते हैं लेकिन पानी की मिलावट को अलग नहीं कर सकते, तो इस तरह का पति और पत्नी का जो दांपत्य प्रेम है उसको इतनी दृढ़ता और चिरस्थायित्व दिया है कि इसी जीवन में नहीं बल्कि आगे आने वाले जन्म में भी उसका स्थायित्व रहे, खैर हम अगले जन्म को छोड़ भी दें, हम इस जीवन तक ही उसका स्थायित्व मानें, तो भी हम उसी आधार पर अपने देश का निर्माण सकते हैं । पति और पत्नी के बीच जो एक सुन्दर भावना देश के निर्माण की है उस चीज को भुला कर हम पहले से ही डाइवोर्स का भय रख दें, तो हम देश का निर्माण करने में सफल नहीं हो सकते ।

दूसरी बात यह है कि एक आरोप यह है कि पुरुष जाति ने जान बूझकर अपने लिये बहु पत्नी विवाह प्रथा का निर्माण किया है और स्त्रियों के लिये बहु विवाह प्रथा का निषेध किया है, किसी अंश में स्त्री मात्र के साथ ज्यादती है, परन्तु सूक्ष्म विचार से देखा जाय तो ज्यादती नहीं है पुरुष जाति के बहु विवाह का कारण था सन्तति उत्पन्न करना । उस समय संतति की कमी थी, इसलिये इस बात की गुंजायश रक्खी थी कि अगर एक स्त्री के संतान

उत्पन्न न हो तो उस अवस्था में अपवादस्वरूप दूसरी स्त्री से शादी कर लेने को जायज माना गया था, फिर भी शास्त्रकारों का मत है कि उन्होंने इस दृष्टि से कभी विवाह प्रथा को प्रोत्साहन नहीं दिया कि वह विलास व भोग के लिये विवाह करें, विवाह दुबारा करने की अनुमति अगर दी गयी है तो सिर्फ संतान उत्पन्न करने के लिये और हमारे वहां ऐसा लिखा है :

"ऋतुमतीं भार्यामुपेयात्"

उस समय मनुष्य भोग के लिये विवाह नहीं करता था बल्कि अच्छी संतान पैदा करने के लिये विवाह करता था, मैं यह मानता हूं कि आज परिस्थिति ऐसी है जब हमें ज्यादा संतान पैदा करने की आवश्यकता नहीं रह गयी है बल्कि एक तरह का नियंत्रण आवश्यक हो गया है तो यह तो मैं मान सकता हूं कि आप इस तरह की इसमें व्यवस्था कर दें कि पुरुष अपना दूसरा विवाह न कर सके, वह मैं समझ सकता हूं, लेकिन डाइवोर्स का जो क्लाज है मैं इसके सर्वथा विरुद्ध हूं और चाहता हूं कि कम से कम इस क्लाज के बाबत बहुत दूर तक सोच कर आगे कोई कदम बढ़ाया जाये ।

श्री सिंहासन सिंह : उपाध्यक्ष महोदय, इस विधेयक पर मैं देखता हूं बहुत सी बातें कही जा रही हैं । अभी मेरे से पूर्व वक्ता ने शुद्ध और सुन्दर हिन्दी में धार्मिक पद्धति से किये गये विवाहों की महिमा और उनके गुणों के बारे में कहा । वह सब ठीक है लेकिन इस विशेष विधेयक का धार्मिक विचारों से कोई सम्बन्ध नहीं है । यह विधेयक जैसे और चीजों के कंट्रैक्ट्स होते हैं वैसे ही इसके दुवारा शादी को भी एक कंट्रैक्ट का रूप दिया जा रहा है । शादी की रजिस्ट्रार के वहां रजिस्ट्री होगी और जो स्त्री अथवा पुरुष अपनी खुशी से इस विधेयक के दुवारा अपनी शादी रजिस्टर करायेंगे तो उनके लिये डाइवोर्स भी होना उतना ही जरूरी है जितना कि विवाह हुआ करता है । यह विवाह कोई धार्मिक पद्धति अथवा संस्कार से सम्पन्न नहीं होने जा रहा है जिसके कारण पूर्व वक्ता ने यह कहा कि इस जन्म में और अगले जन्म में भी पति और पत्नी के बीच एक अटूट सम्बन्ध स्थापित हो जाता है । यह विवाह तो इस जन्म के लिये है, इसलिये इसमें ऐसे विषयों का आना कोई ज्यादा उपयुक्त नहीं है । डाइवोर्स का इसमें प्राविजन तो रखना ही पड़ेगा । हां मैं यह जरूर महसूस करता हूं कि कुछ बातें इसमें अनुचित रूप से आ गयी हैं, उनको निकाल दिया जाये तो यह ठीक हो सकता है और जैसा कि हमारे पूज्य कृपलानी जी संशोधित करना चाहते हैं अगर वह कर दिया जाये तो यह अपने स्थान पर बहुत सही होगा लेकिन क्लाज २७ के उपधारा सी में जो विवाह विच्छेद का कारण बताया है उसमें बड़ा अनर्थ होने की सम्भावना है क्योंकि ऐसा उसमें दिया हुआ है :

> "is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code (Act XLV of 1860)."

यह जो कारण विवाह विच्छेद का बताया है उसमें बड़ा आघात होने की सम्भावना है क्योंकि ऐसा समय आ सकता है कि कोई पुरुष औरत के रक्षार्थ ही किसी पर आघात कर दे और उसमें उसको सात वर्ष की सजा हो जाये और सभा के तीन वर्ष व्यतीत हो चुके हों तो विवाह विच्छेद हो सकता है, मैं समझता हूं कि दोनों प्रकार से वैवाहिक सम्बन्ध पर एक बहुत बड़ा आघात पहुंचेगा । मेरे विचार में अगर किसी पुरुष को किसी अनर्गल कार्य में सजा हो, जैसा चोरी हो, डकैती हो, तब तो मैं समझ सकता हूं कि उस की स्त्री उस से विवाह विच्छेद करे । लेकिन इंडियन पेनल कोड की किसी धारा के अन्तर्गत अगर उस को सजा हो जाये, जैसे अपने घर और जमीन की रक्षा के लिये कोई फौजदारी कर बैठे, या कत्ल कर बैठे, तो उसको सात वर्ष के ऊपर की सजा हो जायेगी ऐसी अवस्था में भी विवाह विच्छेद हो जाये यह रखना ठीक नहीं है । इस लिये जो श्री मूलचन्द दुबे का संशोधन है, कि इस को निकाल दिया जाये, वह बड़ा अच्छा है, ऐसा मेरा ख्याल है । और भी कुछ भाइयों के संशोधन हैं कि मारल

[श्री सिंहासन सिंह]

टर्पिट्यूड बढ़ा दिया जाये । वह भी हो सकता है, लेकिन जिस रूप में यह रक्खा जा रहा है उस से बड़ा अनर्थ होने की सम्भावना है ।

इस के बाद मैं देख रहा हूं कि क्लाज बी और क्लाज 'के' में सामंजस्य नहीं है । क्लाज 'बी' में है :

"has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition;"

यानी तीन वर्ष तक अगर किसी का सम्बन्ध बिना कारण से छूट जाता है तो वह भी कारण हो सकता है विवाह विच्छेद का । लेकिन क्लाज के' में कहते हैं :

"has lived apart from the petitioner for one year or more or the parties refuse to live together and have mutually consented to dissolve the marriage;"

वहां एक वर्ष कर दिया । एक तरफ 'बी' में, तीन वर्ष बिना कारण विशेष के अलग रहे तो विवाह विच्छेद हो सकता है, यह रख दिया । लेकिन साथ ही 'के' में यह रख दिया :

"has lived apart from the petitioner for one year or more"

यानी एक वर्ष या एक वर्ष से अधिक अगर पिटिशनर से अलग रह जाये, तो कारण रहे या बिना कारण रहे विवाह विच्छेद हो सकता है । तो मैं विधि मंत्री जी से पूछना चाहता हूं कि दोनों में कहां तक सामंजस्य है ? और दोनों में जो असमानता है उसका क्या परिणाम होगा । एक वर्ष तक अलग रहने पर भी विवाह विच्छेद हो सकता है और तीन वर्ष तक अलग रहने पर भी विवाह विच्छेद हो सकता है । बिल तो ऐसा होना चाहिये कि झगड़े का कोई मौका न रहे और कम से कम मुकदमेबाजी की नौबत आये । अब आप दोनों चीजें रक्खेंगे तो कैसे काम चलेगा । जब झगड़े होंगे तो कोई तो एक वर्ष की बात कहेगा और कोई तीन वर्ष की बात कहेगा । होता यह है कानून में कि अगली बात के बाद जो पिछली बात कही जाती है उसी को ठीक माना जाता है । तो इस में पहले तो तीन वर्ष रक्खा और बाद में एक वर्ष रक्खा है । नतीजा यह होगा कि पिछली बात रह जायेगी और पहली बात खत्म हो जायेगी । इस लिये हम जो विधान बनायें वह अदालत में जा कर अल्ट्रा वायर्स न हो जाये इस का हम को ध्यान रखना चाहिये, हम ने बहुत से विधान बनाये हैं जो सुप्रीम कोर्ट में जा कर अल्ट्रा वायर्स हो रहे हैं । इस लिये आप दिल्लगी के लिये विधान न बनायें । आप को इस पर भी विचार करना चाहिये कि कहीं ऐसा विधान न बन जाय जो कि अल्ट्रा वायर्स हो जाय । अगर इस के लिये सुप्रीम कोर्ट ने कह दिया कि सो फार एंज इट इज कन्सर्न्ड, इट इज अल्ट्रा वायर्स । हमारी सब मेहनत बेकार गई । हम ने इतना परिश्रम करके कानून बनाया और उस को सुप्रीम कोर्ट या हाई कोर्ट ने उखाड़ कर रख दिया तो उस से क्या फायदा ? इस लिये मैं विधि मंत्री से पूछूंगा कि इस में समानता कहां है ? अगर इस में समानता नहीं है तो वह इस को ठीक कर लें ।

दूसरी बात जो इस में है वह श्रीमती उमा नेहरू के संशोधन में है । अर्थात् 'के' धारा को निकाल दिया जाय कि पति और पत्नी दोनों के आपसी राय से विवाह विच्छेद न हो । जहां पर दोनों की अपनी इच्छा से, बिना माता पिता की मर्जी के शादी हो सकती है वहां दोनों के चाहने से विवाह विच्छेद भी हो सकता है, इस में किसी को कोई एतराज नहीं हो सकता है । लेकिन इस में एक आपत्ति का कारण है । मेरी आपत्ति वह नहीं है जो कि मेरे मित्र श्री वी० जी० दंशपांडे जी को थी । उन्होंने धर्म का जिक्र कर के विवाह के विच्छेद का विरोध किया था । मैं नहीं कहता कि इस बिना पर विरोध किया जाय । वास्तव में विवाह विच्छेद का तो विरोध होना ही नहीं चाहिये क्योंकि इस विधेयक को हम ने मूलतः स्वीकार कर लिया है और इस की बहुत सी धारायें पास कर ली हैं ।

विवाह का विच्छेद होना तो आवश्यक ही है। लेकिन जहां दोनों की सम्मति से विच्छेद की बात है, वहां देखने में तो बड़ा अच्छा लगता है, पर साथ ही खतरा भी है। मैं ने अपना पक्ष उस समय और भी मजबूत समझा जब कि मैं ने देखा कि इस धारा के उड़ा देने के पक्ष में हमारी बहिनें श्रीमती उमा नेहरू जी हैं और श्रीमती मायदेव जी हैं। मैं भी यही सोचता हूं कि इस प्रोत्साहन नहीं दिया कि वह विलास व भोग के को उड़ा दिया जाय तो अच्छा है। विवाह विच्छेद पति और पत्नी दोनों की रजामन्दी से होगा। लेकिन एक पक्ष अर्थात् पुरुष का पक्ष सबल है और स्त्री का पक्ष निर्बल होता है। प्रायः देखा गया है कि पुरुष स्त्री को ताड़ना दे कर, पीट कर राजी करने में कामयाब हो जाता है कि वह विवाह विच्छेद कर लेगा और जब वह राजी हो जायेगी तो वह मनमानी शादी करेगा।

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

तो इस तरह से यह जो धारा है वह स्त्रियों के हित में न हो कर उन के विरुद्ध जायेगी। मेरा ख्याल है कि शायद इसी विचार से श्रीमती उमा नेहरू ने इस को कहा है कि निकाल देना चाहिये। इस बात पर हमारे विधि मंत्री अवश्य गौर करें। अगर यह एक चीज स्त्रियों के विरोध में जाती है इस को निकाल देने में मेरे विचार में कोई हर्ज नहीं है।

धारा 'ई' रोगी होने के बारे में है और धारा 'जी' लेप्रासी के बारे में है। अगर कोई पांच वर्ष तक कोढ़ रोग से पीड़ित हो और वह इन्क्यारेबल हो तो विवाह विच्छेद हो सकता है। मेरे विचार में यह ठीक नहीं है। पांच वर्ष तक एक दूसरे के साथ इच्छा के विरुद्ध रहने के लिये कानून द्वारा बाधित किये जाय ठीक नहीं जचता। क्यों कि साथ रहने से दूसरे को भी कोढ़ हो जाने की सम्भावना है अतएव अगर वे चाहते हों कि वह अलग हो जायें तो उन को इस का मौका मिलना चाहिये। अगर वह खुशी से साथ रहना चाहें तो रहें, लेकिन अगर वह पांच वर्ष के पहले ही अलग होना चाहें, क्योंकि इस प्रकार वह एक दूसरे को बीमार होने से बचा सकते हैं, तो उन को इस का मौका क्यों न दिया जाये? क्लाज ४ में लिखा है कि शादी किन किन अवस्थाओं में होगी। वहां कोई भी समय की अवधि नहीं दी हुई है। इस लिये केवल विवाह विच्छेद के लिये पांच वर्ष रखना ठीक नहीं है।

इस के आगे आप इस कानून की धारा २८ पर गौर कीजिये। वहां दिया है कि तीन वर्ष के अन्दर विवाह विच्छेद का दावा नहीं हो सकता। इस बीच में पुरुष एंडल्ट्री करता रहे, लेकिन तीन वर्ष तक पत्नी घर में बैठी रहे और सब बातों को देखती रहे। यहां तीन वर्ष क्यों रखा गया है यह मेरी समझ में नहीं आता है। मान लीजिये कि शादी के बाद दम्पति में प्रेम भाव नहीं हुआ, एक दूसरे में विश्वास नहीं हुआ, तो वह जिस वक्त चाहे दावा कर के अलग हो जावे, यह रखना चाहिये। दोनों चीजों अर्थात् धारा २७ व २८ को आप साथ रख कर चलें। और मैं अनुरोध करूंगा कि जो भी माननीय सदस्य बोलें वह दोनों बातों को साथ रख कर बोलें। इस प्रकार हम ज्यादा बुद्धिमता के साथ विचार कर सकते हैं। हम को सोचना चाहिये कि विवाह विच्छेद अगर तीन वर्ष के पहले न होना चाहिये तो क्यों न होना चाहिये?

इतना ही मुझे कहना है। आप ने घंटी बजा दी है, इस लिये अब मैं समाप्त करता हूं।

Shri C. C. Shah (Gohilwad—Sorath): I accept the principle of divorce as a necessary evil, and therefore, the only question before us is, if we are to permit divorce, we must be sure as to the grounds on which we shall permit it. And those grounds must be based upon some principle. Therefore, we have to examine whether the grounds enumerated in clause 27 and the amendment seeking to introduce a new clause 27-A, are based upon any principle on which we can justify them.

I submit the only principle which we can enunciate for divorce is this, that marriage ordinarily is intended to be an indissoluble tie for life, but that if either of the spouses, for no fault

[Shri C. C. Shah]

on his or her part, is put in a position where it will be cruelty to her or him to compel her or him to continue in that tie, then society may permit divorce. It only means that the petitioner in a petition for divorce must be a party who is aggrieved, that the petitioner must be a party who is innocent, and that the petitioner must prove a case in which the society and the court representing the society may say that even though marriage is intended to be indissoluble and for life, here is a fit case in which we will permit an exception.

Therefore, to put it broadly, every ground of divorce must be what is called, misconduct on the part of the respondent, that is to say, the respondent must have misbehaved in a manner which makes it intolerable for the petitioner to submit himself or herself to the marriage tie and, therefore, one in which the petitioner has all our sympathy and, therefore, we permit divorce. Now, if that is the principle, I submit you automatically rule out divorce by consent because if both parties together come to you and say: 'We want to dissolve the marriage', you strike at the very root of the indissolubility of the marriage tie. If you permit marriage to be dissolved merely because both parties come to you and say, 'we do not want to live together', then you strike at the very root of indissolubility. (*Interruption*). If you examine all the grounds enumerated in clause 27, except ground (k), each one of the grounds from (a) to (j) is a ground in which the petitioner has nothing to do. Either it is adultery, or cruelty or unsoundness of mind, venereal disease, desertion or imprisonment for seven years. Take any of the grounds, (a) to (j). It is the respondent who is at fault and the petitioner is innocent. Therefore, the court says or the society says 'We will permit divorce'. It is only in respect of ground (k)—and that stands by itself, as I say—that both parties come together and say 'We do not want to live together; therefore, permit us to separate'. Now, I say no law has permitted that—for a very good reason. It is said that marriage is a contract and, therefore, it can be dissolved by mutual consent. Now, I say that that conception is wrong. It is undoubtedly a contract in the sense that both the parties must come together willingly and none of them can be forced to come into the contract. But having agreed to be bound by that contract, you have also agreed that that contract shall be for life. That is one of the essential conditions of that contract.

Shri Venkataraman: No.

Shri C. C. Shah: You may say 'no'. Then you strike at the very idea of marriage. All that you say would be logical; if you agree, not only that it shall be dissolved by mutual consent, but it shall be dissolved also at the will of either party. If I do not want to live with my wife, why should you compel me to live with her? Why do you need the consent of the court to permit me to dissolve the marriage? The reason is this: that marriage is not merely a matter between two parties; it is a social institution and has social consequences. Therefore, it is a contract which is not merely bi-partite between the husband and wife, but it is a contract which is tri-partite, and the third party to the contract is the society. It is the consent of the society which is necessary before the marriage tie can be permitted to be dissolved. Otherwise, why do you go to court? If by mutual consent, you can permit marriage to be dissolved, you just inform the Registrar of Marriages that we have by mutual consent dissolved the marriage. Why is the intervention of the court necessary at all? The intervention of the court is necessary, I submit, because the society, and the court as representing the society, have got to be satisfied that this is a fit case in which the society will permit dissolution of the marriage tie. It is obviously because of the enormous social

consequences which follow to the children, to inheritance, to property, to the stability of the whole social fabric that this intervention comes in. That is the very reason why in every divorce law, you find a provision that the parties shall swear on oath that there is no collusion between them. And the courts have gone to this length, and every marriage law and divorce law has gone to this length that even if the court has granted divorce on oath that there is no collusion and if subsequently it is found out that there was collusion, the King's Proctor can intervene for nullity of the decree and can move the court to say that even though the decree for dissolution of the marriage is passed on oath of the parties that there was no collusion, subsequently they have found facts to prove that there has been collusion and therefore the decree should be annulled. The whole ground, the whole basis, is that an innocent party comes to the court and says: 'Please do not keep me tied to this; it is a cruelty to me; it is no fault of mine'. I, therefore, submit that when you permit marriage to be dissolved by mutual consent, you may choose to do so, but knowingly. You may choose to make marriage an unstable institution with all its consequences. If that is what we want to do, let us exactly understand what we want to do, with eyes open. I submit that we should not do it.

Now, knowing this, an amendment has been moved which is for a new clause, 27-A. What does it say? It says 'if the petition avers that the parties have been living separately for a period of one year'. Here it is made to appear as if the parties are living separately by mutual consent. But that need not be. If the husband lives separately from the wife, and does not live with the wife, they are living separately; the wife is not a party to that separation. The wife may not wish to live separately. The husband lives separately; the wife has no option, no choice. Or it may be *vice versa*. To say that they have been living separately is, of course, technically correct, but not by mutual consent. So the act of living separately is a unilateral act on the part of one spouse. The second condition is that they have not been able to live together. Now, the fact that they have not been able to live together may not be due to the fault of both, but may be for the fault of one only. The husband may not choose to live with the wife and, therefore, they are not able to live together. Now, under both conditions, it is the wife who undoubtedly must have the right to go to court and seek a divorce, but not the husband. But by what you provide, even if the husband will be living separately from the wife for no fault of the wife, even if they are unable to live together....

Shri Venkataraman: May I correct my hon. friend? These two grounds will not suffice...

Shri C. C. Shah: I know it. I will analyse every element of it.

Shri Venkataraman: I hope you do.

Shri C. C. Shah: I am not given to making generalisations. I analyse carefully before I say anything. I am coming to one after another. (*Interruption*)

Now, they have mutually agreed that the marriage should be dissolved. Now, that mutual consent can be procured by a kind of subtle coercion and cruelty which would, in my opinion, be intolerable.

Shri Venkataraman: That is provided for in amendment No. 520.

Shri C. C. Shah: I will come to that also, because I know everyone of the amendment moved and I will analyse them. Therefore the treatment which the husband or wife wishing divorce gives to the other spouse can make the life of the other spouse intolerable so that spouse can have nothing else to do but consent. (*Interruption*). The party which can coerce the other spouse into submission to consent can also coerce that spouse to see that evidence of such coercion is not brought

[Shri C. C. Shah]

before the court. If I coerce my wife to consent to a divorce, I can successfully coerce her to see that she will not divulge to the court that I have coerced her to consent? So how will you know whether it is coercion or not, because the very basis of the petition will be that both of us come before the court and ask for divorce? Now, will the wife separately present a petition and say: 'No. Though I have presented this petition jointly with my husband, I now want to present a petition to say that my husband has coerced me into consenting to this mutual consent'? The very fact that my friend is compelled to move this amendment to say that consent is not procured by coercion or fraud shows the danger underlying this amendment.

One of the hon. Members read out the Chinese law in which by mutual consent marriage can be dissolved. In Russian law, it was told, in the beginning they had merely to inform the Registrar by letter that they had decided to dissolve the marriage, and they could do so.

Shri V. G. Deshpande: Barbarians do not marry also.

Shri C. C. Shah: My submission is that the whole basis of this law is that an innocent party persuades the society to permit that party to be free from the bonds of marriage because it is intolerable. Divorce by mutual consent strikes at the very root of the idea of marriage. That is my submission on this clause.

4 P.M.

After all, marriage will remain a lottery to many and it is only very few people who draw the prizes. Out of 10,000 people who take the ticket, it is only one or two who draw the prizes. I may get a number very near the one that draws the prize and others may get a number far from that. It is only very rarely that we get the prizes. We have agreed that marriage tie shall not be dissolved easily. Kalidasa said in *Shakuntalam*:—

समानयन् तुल्य गुणम् वधूवरम् ।
चिरस्य वाच्यम् न गतः प्रजापतिः ॥

The *Prajapati* is blamed at every marriage because it is very rarely that he brings together husband and wife of equal qualities.

Shri Gadgil (Poona Central): He would not have been blamed had there been a divorce law.

Shri C. C. Shah: Therefore, it was said that after a very long time, *Prajapati* would not be blamed for he had brought together Dushyanta and Shakuntala, as husband and wife, both of equal quality. Therefore, while we accept the idea of divorce, it is not a unilateral act of either party but the consent of both the parties and the consent of the society. My submission is....

Shri S. S. More: How is the consent of the society to be recorded?

Shri C. C. Shah: I have already explained it; if the hon. Member was not here, I am sorry.

Shri S. S. More: I was here listening to him from the back bench.

Shri C. C. Shah: Then I do not want to repeat my argument because my time is up.

Amendments 97 and 510 strike at the very root of the idea of marriage. Therefore, I am unable to agree to this.

There is only one more submission that I wish to make. A marriage law or a law of succession may not be uniform because it is difficult. But the law of divorce should be uniform. We have a Hindu Marriage and Divorce Bill, which is before the Select Committee. If you think that this is going to be an ideal law for marriage and divorce and succession, then at least so far as divorce is concerned, there must be uniformity. Otherwise, what will be the consequence? There will be a great abouse of clause 15 of

this Bill. If you permit divorces by consent under this Bill and do not permit divorce by consent in the Hindu Marriage and Divorce Bill, if you are unable to go to that length in that Bill, then anybody wishing divorce by consent will register his or her marriage under this Bill and seek divorce. It is not because they are enamoured of this Bill but it is because of the facility that it affords them. It will be an inducement for registering marriages under section 15. I submit it would be fraud on the law and therefore, if you are consistent, in the Hindu Marriage and Divorce Bill also you must have provisions which are the same as in this Bill.

Shri D. C. Sharma (Hoshiarpur): Mr. Chairman, Sir, I have listened to a large number of arguments in this house about this clause,—all kinds of arguments, arguments derived from religion, arguments derived from the laws of social cohesion and social solidarity, arguments derived from literature, sociology and psychology. But, I must say that I am going to look at this clause simply from the point of view of a normal human being. *(Interruption)*. If you look at this clause from this point of view, I think we shall be convinced that this clause does not make the path of divorce very easy. It does not tell us that we shall have divorce without tears, if I can use a very well-known expression. It is a clause which gives divorce with a large number of tears. That shows that the path of divorce is made as difficult as possible in this case.

Lots of arguments have been given on the strength of religion. I think I know it and you know it and I think most of the hon. Members of this House know that there are four distinct features of religion,

वेदः स्मृतिः सदाचारः स्वस्यस्य च प्रियमात्मनः ।
एतच्चतुर्विधं प्राहुः साक्षाद्धर्मस्य लक्षणम् ॥

Our religion is based upon the *Vedas*, the *Smritis*, upon the good conduct of good persons and also upon one thing more, and that is, that one should not do anything which goes against one's nature. I think even from that point of view the marriage which is postulated in this Bill comes under the last because, after all, this is also one of the pillars of religion as enunciated by our *shastras*.

I ask one question; Do you want to continue a marriage if one of the two spouses is in the habit of committing adultery? I do not think any sane person would say that. Surely, you would like to have that marriage dissolved. It has been said that the man should have been committing acts of adultery. With my imperfect knowledge of English I can say that committing adultery means that the fellow has been in the habit of committing adultery. Adultery is a secret vice and a man is declared adulterous only after he has been found out after a series of acts of adultery.

Several Hon. Members: No.

Shri D. C. Sharma: I want to ask you; Should a partnership continue after one party has deserted? I do not think anybody will say that that partnership should continue. Should a partnership continue if one person is found guilty of a culpable offence? I do not think anybody would say that it should continue. I look at it from the point of view of a normal human being. I ask you, Do you want that a partnership should continue if one of the parties is guilty of practising cruelty? No one will say like that. At the same time, I ask you, Do you want that a partnership should continue when one of the parties is a lunatic or is of unsound mind? I do not think so. After all, marriage is a partnership for happiness. And, when you do not get happiness, I do not think that there will be any reason for continuing this partnership, the obvious effect of which is unhappiness. Do you want that a party sould continue to live with a person who is suffering from a loathsome disease like leprosy or venereal diseases? I do not think anybody would say that this partnership should

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continue because the disease can be cured or has been cured or shall be cured. I do not think so. Do you want that this partnership should continue if a person's whereabouts are not traceable and have not been traceable for a long time? I do not think that modern society can take account a lapse of that kind and can forgive it.

An Hon. Member: Is my friend having an argument for all clauses.

Shri D. C. Sharma: I do not want to look at this thing only from the legal point of view. I am putting these questions to you and I ask to look at these things from the human point of view. (*Interruption*).

Pandit D. N. Tiwary (Saran South): Do you mean to say that the partnership should be dissolved at every little excuse?

Shri D. C. Sharma: The time-limit has been given in such a way that flimsy excuses are not the basis of a dissolution of the partnership. If you look at the time-limit, you will find that the utmost time-limit has been given. Therefore, I say, if you look at these clauses from that angle, you will find that there is ample reason why that partnership which is not productive of happiness should be dissolved

I know much has been said about this business of mutual consent. I have known a few cases where persons have procured divorce by mutual consent. After having procured divorce by mutual consent, the husband and wife have met each other more or less as friends. There has not been much of malice, much of bitterness, much of vindictiveness in the process. I know of a few such cases. If any hon. Member believes that this consent can be obtained through coercion, to him I would put this question: If a husband is a bully and he can bully his wife into consenting to a divorce, well, he can bully her into doing anything and that wife should not live with that husband. On the other hand, if a woman is a bully, her husband should not live with her. Therefore, I say that this clause is intended to protect husbands against bullying by their wives and wives against bullying by their husbands. This is a very wholesome provision. This clause is causing unnecessary suspicion in the minds of some and unnecessary anxiety in the minds of others. It is not liable to be easily abused and will not make the tie of marriage as brittle as some people seem to think. The tie of marriage will remain as stable as ever, while it will save parties who live in unhappiness.

Shri M. S. Gurupadaswamy: Mr. Chairman, Sir, it is a great irony of human life that man cannot live with a woman; nor can he live without her The present Bill seeks to bring about a sort of a compromise between these contradictions.

Shri S. S. More: There is no contradiction.

Shri M. S. Gurupadaswamy: How many husbands would choose to live with kicking, spitting, scratching and scrawling wives?

Shri S. S. More: None of us has that experience.

Shri M. S. Gurupadaswamy: How many wives would wish to live with husbands who are biting and beating and doing other sadistic acts? Nobody would. This measure provides an umbrella to prevent such unhappiness in the community.

And I must admit that except a few items, I generally endorse the provision for divorce. Sir, from ancient times, and even today, there are so many people who think that for the woman the immediate God is man. I think such mediaeval tribal conceptions should not be there in an age of consent. In an age of consent, in an age of reason, we must be rational. We must recognise the realities of the situation. I want Members of this House to be human, before they want to become divine. First of all, they must recognise human frailties, natural weaknesses of man and woman and they must make provision for such weaknesses.

We should not attempt to create an ideal picture, an idealist or utopian world and try to reach that world.

Sir, I generally endorse the provision of divorce, but I want to make a few observations regarding some of the sub-clauses. First of all, I shall deal with sub-clause (a) which relates to adultery. Acharya Kripalani, while making his observations, said there should be the addition of the words "acts of" before the word "adultery". Sir, it is a matter of common sense that to make one single act of adultery the basis of divorce is unreasonable.

Shri N. C. Chatterjee: Then how many cases do you want?

Shri M. S. Gurupadaswamy: I cannot say how many acts of adultery should be the basis of divorce, but adultery should be continuous, it should be frequently done.

Shri K. K. Basu: Not intermittently?

Shri M. S. Gurupadaswamy: There are cases of incapacity. Suppose a man or woman is incapable of understanding the act which he or she is doing. Supposing he or she commits adultery unknowingly...

Shri S. S. More: How can it happen? Even for adultery *mens rea* is required.

Shri M. S. Gurupadaswamy: My friends here are a little puzzled, because it is something new to them.

Shri S. S. More: Yes, something modern.

Shri M. S. Gurupadaswamy: There are cases in English law. You can find them in "Tolstoy on divorce". I cannot lay my hands on specific cases, but there are so many to show this.

Persons may suffer from incapacity that they may not understand the consequences of their act. Such cases should not be taken as the basis for divorce. There is a custom—some hon. Members may be surprised to hear it—according to which women who have not got children by their husbands, and who are anxious to get them, go to other men. There is no criminal intent, there is no other intention. Will you allow divorce on that account?

Pandit D. N. Tiwary: May I know in which part of the country?

Shri M. S. Gurupadaswamy: In certain parts of Mysore and other places it is in vogue. You may be surprised to hear that.

Shri S. S. More: With the consent, or connivance of the husband?

Shri M. S. Gurupadaswamy: The husband may not know it: with the connivance of the husband also it is done.

Shri S. S. More: Then is it not adultery under the Adultery Act.

Shri M. S. Gurupadaswamy: My contention is that adultery should be proved beyond reasonable doubt. Unless it is proved beyond reasonable doubt that should not be made a ground for divorce.

Regarding cruelty, I may quote a few instances to show what types of cruelties have been thought of and might be brought under this. Supposing there is refusal of sexual intercourse which would injure the health of husband or wife. Can we consider it is as a cruelty; I want to know Can you construe constant nagging of the wife as a cruelty? Then take the case of using of contraceptives. Wives may not like it; husbands may not like it; and it may cause injury to health. Can we construe it as cruelty? Can we consider *coitus interruptus* as cruelty? Therefore, Sir, I want to know what types of cruelty will be made the basis for divorce. There may be grossly excessive or revolting sexual demands by one partner which may lead to cruelty or some sort of injury to health. I want to know what cruelties are covered by this. To my mind it appears that it should be 'extreme cruelty'; it should be physical cruelty, physical violence which causes injury to any limb or body of the man or woman which cannot be restored in the ordinary course and in the normal

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time. Therefore, this word 'cruelty' should be qualified and it should be 'extreme cruelty'. If you only say 'cruelty' it may mean normal cruelties and therefore it requires some elucidation.

Then, Sir, I come to my amendment No. 411 on 'unsound mind'. Sir, for the present provision I want to substitute:

> "(e) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition; or"

This is in the English Act and I have taken it from the English Act. This is very reasonable.

An Hon. Member: Why?

Shri M. S. Gurupadaswamy: Unless a person who is of unsound mind is under the continuous treatment, and still remains uncured divorce ought not to be granted on this ground.

Shri K. K. Basu: Of the sane doctor.

Shri M. S. Gurupadaswamy: I tell you it is inhuman to grant a divorce on that basis. Suppose a person is a lunatic or an idiot and he is not treated properly, then on that ground should a divorce be granted?

An Hon. Member: Who should treat him?

Shri M. S. Gurupadaswamy: The society or the Government should provide all facilities for it. Unless there is proper treatment; unless proper steps are taken to cure the lunacy or idiocy, divorce should not be granted.

Shri S. S. More: May I know from the hon. Member whether the other party who is likely to take advantage of this ground is to attend to the treatment for a period of five years?

Shri M. S. Gurupadaswamy: The other party should take the party of unsound mind for treatment and all facilities should be provided for treatment. If after that he or she is not cured, then divorce may be granted.

Lastly I would like to say a few words about mutual consent. Some hon. Members are objecting to this. They say it is very revolutionary. I must say it is most reasonable. I would rather like to grant a divorce on mutual consent than to grant a divorce on grounds of adultery, venereal disease or some such other ground. It is more decent and it is more human. Suppose a man or woman who are married to each other commit adultery for the sake of divorce, that will be most heinous and morally repulsive. I would rather say that a divorce granted on mutual consent is far far better than a divorce granted on other grounds. Therefore, I say, that this provision, if it is retained, may eliminate other grounds being sought by parties. A man or woman may try to commit adultery because there is no other ground for divorce. Suppose this provision of mutual consent is there, if one party does not like to live with the other and agree to part, they may be granted divorce without committing any other offence.

Therefore, I submit, Sir, that this provision is a very salutary one, very progressive and quite reasonable and it should be accepted by the House.

Shri Pataskar: I will not take a long time of the House—the hon. Law Minister is not here—but I must first of all appeal to him that the remarks that I am going to make now are not actuated by any desire to support the so-called indissoluble sacramental marriage because it may be known that I have already introduced a Bill in this House providing for divorce among the Hindus. I was a party to the passing of and a member of the Select Committee on the Bombay Hindu Divorce Act. So far as my State is concerned it has already passed an Act to prevent bigamous marriages

and also an Act to enable Hindu women to have divorce. Therefore, whatever I am now saying—unfortunately the hon. Minister is not here...

Shri S. V. Ramaswamy: I will convey to him.

Shri Pataskar: But those with him should report to hm...

Shri Raghavachari (Penukonda): Sir, on a point of order.

Shri Pataskar: There is no point of order have not said anything to call for a point of order.

Mr. Chairman: Order, order. A point of order has been raised and, therefore, let us hear the point of order.

Shri Raghavachari: Is it open to any Member of the Parliament to say that he represents the Minister?

Shri N. C. Chatterjee: Unless he is a prospective deputy.

Mr. Chairman: Is that all the point of order? In this House there is freedom of speech. Any Member can speak anything he wants. It was only a private talk and it was not meant for the whole House.

Shri Pataskar: I am sorry for the interruption. What I was saying is that I really look upon this with a more serious bent of mind, if I can at all convince anybody that I am really so serious. The point is that it is a very strange process through which the present Bill has passed. In the beginning when the Bill was introduced in the Council of States there was the clause which says that the Indian Divorce Act should apply to such marriages. It went to the Select Committee and the Select Committee thought that all the divorce provisions may be incorporated in this Bill. I do not know whether there was any occasion to suggest that so far as the Special Marriage was concerned the Indian Divorce Act shall not apply. Then, Sir, another strange thing happened when it went to the Council of States with regard to sub-clause (k) of clause 27. The Bill has been suffering not on account of any strong objection from a large section of the House, but because somebody wants to say or suggest something which just fits in with their ideas. I would appeal to the House to look upon this provision with rather a dispassionate view. I come from a State where there is no indissoluble sacramental marriage since the last five years and more. Let us see what is the effect of sub-clause (k). It says:

> "has lived apart from the petitioner for one year or more or the parties refuse to live together and have mutually consented to dissolve the marriage;"

I was surprised to find this 'or'. The word 'or' takes away whatever sanctity can be attached to the marriage. The thing is that a husband and wife may quarrel over a cup of tea saying that the tea is not hot or something like that. Then they may decide to live separately. We know there have been so many cases, particularly among young people, that as soon as there is a quarrel between husband and wife, the wife will say: I will go to my father's place and the husband will say: I will go to my place and they will part. Then what will you do? It may be argued that this Act will not apply to them. If we are going to incorporate it, in this Act very rapidly it will apply to the whole of society. Look at it from that point of view. I would like to appeal to the hon. Members to see to the dangerous consequences that will follow. Just imagine that two people are fighting for something and we know of so many cases with the common people fighting for anything, but I do not know what they do in Delhi and other big cities. Mutual consent to dissolve a marriage is a most dangerous thing. I know there is another system of law amongst certain communities—I do not mean to be offensive to anybody—where one of the parties can give divorce to another by saying *talaks* and I think it has to be done thrice. There is a chance that at least subsequently he may change

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his mind. What we want to do is to give to both parties the same right. Who are the people that are likely to take advantage of this, the husband or the wife? I appeal to all reformers to consider this matter. It is not the wife, because the woman is economically dependent in the present society and it is the husband who will always have the economic advantage at least for a hundred years more and he will continue to dominate. If he does not want the wife, the next day what he will do is to present an application that the wife has consented to the divorce.

There is an amendment by Mr. Venkataraman. Why are you sticking to something wrong that has happened. It should really have no place in any piece of legislation. Even in the Bombay Hindu Divorce Act, for the last five years, nobody has found any difficulty. Why do you want to introduce this principle? I think the Select Committee had not introduced the mutual consent clause, but the Council of States did it. It is a Council of elders and it may be that they are least concerned with the future of our generation. Do not try to perpetuate by improving a thing which itself is not right, not proper, and is something that is strange looking to the whole law of divorce in the country. I find an amendment to the effect that subject to the provisions of the Act and to the rules made thereunder, a petition for divorce may be presented to the district court by both the parties together on the ground that they have been living separately for a period of one year or more. I am unable to understand how this improves the position. I could have understood the implication of the words "the parties refused to live together". Is it not diluting it?

Shri S. S. More: It has a different meaning. It is due to temperamental irreconcilability that they are not in a position to carry on together....

Shri Pataskar: It might also mean that they are not able to live together because the husband is abroad.

Shri Venkataraman: Please read it in the context.

Shri Pataskar: As I said, my fundamental objection is there to it. An attempt is made to improve this because probably it is realised in all quarters that something very strange has happened by the introduction of this sub-clause "that the averments in the petition are true and that the consent of either party to the petition was not obtained by force, fraud or mirepresentation". Who is to prove it? As pointed out by Mr. C. C. Shah, take a normal case. A husband does not want his wife and he, therefore, makes a petition and the petition is filed in the court. Then the court is to ascertain whether there has been force or fraud used in obtaining consent. In normal circumstances what would happen is that whenever there is a petition drawn up and signed by the husband and the wife, the presumption is that it is taken as consent without force or fraud.

Shri S. S. More: May I bring to his notice clause 25?

Shri Pataskar: I have read that also. In the case of undue influence, naturally the husband is in a dominating position. Merely because we make a provision that it should not be obtained by force or fraud, it does not mean anything. It will still be very difficult for any wife to prove.

Dr. Jaisoorya: After all, it does not stop her. She has got to come to the court. Is she going to keep quiet?

Shri Pataskar: At the risk of taking some more time, let me say this. I have got the experience of the working of the Bombay Prevention of Bigamous Marriages Act. It was only a month back that a certain illiterate agriculturist in the Bombay State came to me and told me that unfortunately he did not beget any children out of his wife. The wife also

came to me with him and both of them were there. I am narrating what took place before me a few days ago. He told me, "I want to get another wife; my wife also consents to that." You can understand how the consent of the wife is obtained and this is generally the case with the common people and poor folk. I told him that unless he got rid of his wife, he could not marry again. But here is an Act which might defeat the provisions of that Bombay Act. I submit that, considered from any point of view, this provision is inappropriate. I therefore appeal to the Law Minister—I am one who has been and is a protagonist of divorce in some cases—that he should not accept such a clause as this. Instead of mutual consent, you can have one consent and the whole law can be scrapped. So far as the wife is concerned, it will not mean much. Let us not run from a sacramental marriage to a marriage which will have no meaning and no sanctity. I know that some attempt is made to mitigate the evils of the clause by the proposed amendment of Shri Venkataraman and to that extent I would welcome it. I would appeal to him to have those words in the clause, namely, "refuse to live together" instead of "have not been able to live together". If at all it is not possible now to go back, let him consider this aspect of the question and agree to put in "refuse to live together". The best course to my mind will be to delete this clause altogether as it is entirely foreign to this land.

Shri N. C. Chatterjee: My hon. and learned friend, Mr. Pataskar's speech will enable me to make my observations very brief. It is rather unique in this Parliament that twelve Members of this House belonging to different parties have tabled an identical amendment asking for the deletion of sub-clause (k), that is, Divorce by consent. The first signatory is Shrimati Uma Nehru, the second is Shrimati Indira Maydeo, the third is Shri Venkataraman, the fourth is Shri Raghuramaiah, the fifth is myself, and then there are other Members including yourself (Pandit Bhargava), Mr. Dubey, and Dr. Khare. I am submitting that this Parliament will not be acting properly if it passes this sub-clause (k). When I made my comments on what the Upper House did, I did so with the fullest sense of responsibility. It was not for the purpose of casting any reflection on them that I say so...

Shri Biswas: But do not call them urchins again.

Shri N. C. Chatterjee: I say, Sir, that others spoke in stronger terms. But I take the same line as Mr. Pataskar did a few minutes back.

Shri S. S. More: What a combination!

Shri N. C. Chatterjee: It is a good combination, much better than More-Gurupadaswamy combination. Anyhow, Mr. More makes me exclaim: "O Tempora, O Mores!". He does not know what risk he is running. There may be a leading case of More *versus* More and then he may be divorced and we shall have more angry speeches from a frustrated Member.

I am saying that this is the most retrograde clause and this will be the most mischievous provision in this Special Marriage Bill. It will not be proper to put in this kind of extraordinary and revolting piece of legislation much ahead of social consciousness and without reference to general will of the people.

Secondly, I submit that this will be repugnant to and destructive of Hindu ideals of marriage. This is against India's *swabhab* and *swadharma*. We have developed a certain kind of social system which has progressed for thousands of years, at least for five or six thousand years. It will be destructive of that and it will not be right for this Parliament representative of the general Hindu population to have this kind of a provision put in without a direct mandate

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from the electorate. No mandate was ever sought on divorce by consent. Therefore, I submit neither this House nor the other House has any right to put in a clause like this without giving a chance to the electorate to express its clear will and its clear mandate. You, as the sovereign Parliament, have got the giant's strength but it is not right to use that strength like a giant in an arbitrary manner. It would be arbitrary exercise of your sovereign parliamentary authority which will not be proper.

Thirdly, I am saying that this is opposed to the law of all civilised countries in the world and excepting the totalitarian State of Soviet Russia which had upto 1944 some kind of legislation of this character and some Soviet satellites, it is not in England, it is not in France; it is not in Germany or Italy; it is not in any Christian country, in the United States, Australia or Canada or any other country that we know of....

Shri Venkataraman: But in India.

An Hon. Member: Just say if China also has....

Shri Venkataraman: In the Marumakkattayam families of Madras.....

Shri N. C. Chatterjee: I am pointing out to you, Sir, the definition of marriage in English law. Marriage is defined in the great case of Hyde *Vs.* Hyde, where Lord Penzance delivered his judgment. He said: "Marriage as understood in England means the voluntary union for life of one man and one woman to the exclusion of all others, as understood in all Christian countries". That is the Christian concept and that is the principle in English law and the same concept of law, as we know, prevails in European countries and also in the United States of America and other American States. I think it will be improper to permit collusion or agreement as my friend Shri C. C. Shah pointed out. I think I had also referred to the Proctor in the General Discussions. In every matrimonial court in England you have got at State expense a Proctor engaged whose business it is to see whether a divorce is or was the result of agreement or whether the petition for divorce was filed by agreement or consent or collusion or connivance between the parties. That is the cardinal principle of all divorce laws. Here you are saying that that should be one of the grounds. It is after all a holy union. Call it secular; you may not call it sacremental or *dharmic* you may call it non-canonical; you may call it secular or civil. But even then they in the Western countries say: 'For heaven's sake, do not destroy society; do not destroy family life; do not put in peril the good of humanity, the good of the whole commonwealth." This is the basic factor because on marriage depends the future welfare of the generations yet unborn and we have no right to disturb the welfare of society by this kind of legislation in this Parliament....

Fourthly, what I am pointing out is this. This kind of divorce by mutual consent will in some cases mean legalisation of promiscuous intercourse and this will lead to cases of marriage for few months or days. In this country you can easily get the consent from your wife. Knowing the country as we do, knowing the economic situation of our women, it will not be proper.

Fifthly, I may point out that in countries where they have got divorce laws they are repenting. They are paying for easy divorces. They are finding that family life is being disrupted and they are tightening up the divorce laws. Is it fair that in the year 1954 you are having this kind of legislation? Instead of plugging the loopholes you are making the holes wider and bigger. What has happened in England? A lot of statistics is available. One out of four marriages goes to the rocks. In the United States one in every

three marriages ends in divorce and frustration. Even they have not got this kind of legislation. Are you going to make that experiment in India? It is not proper.

Lastly, in matters of social legislation you should proceed cautiously and with deliberation and discrimination in conformity with the clearest expression of the general will. You should not defy social consciousness. This will lead to a good deal of disintegration of our families; that is not proper. You are allowing Hindu, Muslim and other sacramental marriages which had been contracted years and years ago to be brought in by clause 15. Therefore, I am saying that if you are doing that, you should not keep the door very wide.

Finally, I am saying that this will not make marriages end in enduring unions. It will make them fleeting and make them the subject of hysterical passions and you can have marriages for six months or eight months or for a term. That is completely antagonistic and repugnant to our ideals of social life and should never be allowed. I am pointing out that experiments like this were made by Amanullah and that led to great disintegration. You know about Bachcha Saquo overturned him. You should remember that you should not play with fire, with the cherished ideals of the nation. Do we want Bachcha Saquo regime? I should like to know. There are men who want disruption, anarchy and chaos. There are certain things of abiding value which we are proud of and to which we should stick. You should not put them in peril by these clauses.

I would humbly beseech this House, even now, to think deeply; although you can have other clauses, for heaven's sake do not have this clause, unwanted, revolting, unprecedented, mischievous and extraordinary.

Shri Tek Chand: I wish to offer my hearty felicitations to the author of sub-clause (k); by importing one sentence, he has succeeded eminently in disintegrating society and the whole system of marriage....

An Hon. Member: No, no.

Shri Tek Chand: If the object was to tear the society asunder, if his motive was that the society should be torn into ribbons, if his object was that all decency and moral life should be scattered to the winds, he has succeeded eminently....

Shri Biswas: I think you are referring to clause (a).

An Hon. Member: No, no, clause (k).

Shri Tek Chand: I have had occasion to study the divorce laws of other countries and the divorce laws of our country but this appears to be the first of its kind; absolute and free licence is being given and still the institution of marriage is attempted to be maintained. It was said by the authors of this Bill that the object of this Bill is that there should be monogamy. When I read the Bill, in between the lines I see that not only monogamy is not going to be there, but polyandry and polygamy are being introduced in one shape or other, subject to one condition, one spouse at a time.

Shri S. S. More: What is wrong there?

Shri Tek Chand: What I say is this. So long as sub-clause (k) is there, a woman can part company with her husband 10 times, 20 times, as often as possible allowing three years' interval. The same is true of man. Is this the notion of monogamy that is being introduced by sub-clause (k)? It is a perverted manner of introducing two vicious systems, polyandry as well as monogamy.

Shri Biswas: Sub-clause (k) was not part of the Bill as introduced.

Shri N. C. Chatterjee: The Law Minister opposed it.

Shri Tek Chand: Therefore, I submit that the policy of the law should be continuity of marriage. The policy of the law should be that

[Shri Tek Chand]

people, with all seriousness of the implications of the marriage unto themselves and *qua* their progeny, before they take this final step, should be able to discipline themselves, should be able to conduct themselves in a manner that they may continue with the spirit of union until death. If there is something shocking, particularly disgusting *qua* the attitude of one partner, then only in that exceptional case, in rare cases, give him a respite in order to break that tie. But, make sure that the tie is broken only in the rarest of cases. That is the only way if you want to preserve the institution of marriage. Otherwise, the institution of marriage will absolutely go to pieces.

Shri R. K. Chaudhuri (Gauhati): Why is it necessary?

Shri Tek Chand: You say, why have the institution of marriage? Why you have necessity for this empty ritual called marriage if it is open to the parties to say, all right, we change our mind, better luck next time. I am not a cockney. Otherwise, I would have been inclined to say, let (k) go to 'ell'. It would be well-advised if this provision, sub-clause (k) disappears altogether.

There are some other provisions with respect to which I feel enough care has not been devoted. They are sub-clauses (b), (c) and (e). I do not agree with my hon. friends who say that a single instance of adultery should not give occasion for a petition for divorce. It would be a regrettable thing if a person were to go to a court of law and tell the court, my spouse has been unfaithful, she has defied the sanctity of my bed and the answer of the court were, let her do the same thing a few times more, then you come to me and then I will give you relief. It would be a tragedy of tragedies if the law comes to that.

I would like to invite your attention to clause 28, re Restriction on petitions for divorce during first three years after marriage. This clause, I am willing to concede, was conceived as a proper checking measure, as a sort of a brake. That is understandable. But, this will be a most improper clause when applied to sub-clause (a), that is, in the case of a person aggrieved from an act of adultery of the other partner, the court will have to say, suffer your disgrace and humiliation for a period of three years, let the other party go on with a matrimonial offence of a most disgusting kind, tolerate your indignity, put up with your disgrace for three years. If the petitioner happens to be a husband and the wife has started conducting herself in such a disgusting manner that she is hiring her body, the court will have to say, put up with it for three years before we give you respite, before you are given relief, before you can get rid of her.

Shri S. S. More: Where is the provision for three years?

Shri Tek Chand: See clause 28. The same is true of a man. The husband may become the worst reprobate and a libertine. He may go on gallivanting day in and day out. If the aggrieved wife goes to a court of law, the court will say, put up with this husband and his evil ways for three years before you will get respite and riddance from this disgraceful spouse of yours. Therefore, it will be desirable so far as clause 28 is concerned, that sub-clause (a) of clause 27 is not brought within its ambit.

So far as the other clauses are concerned, I feel that they are not drafted properly, because they are all apt to be abused. For instance, you may see sub-clause (h) which says:

"the respondent

* * *

(h) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive;"

The result may be, his whereabouts may be known, but in so far as he has not been heard of by some, that would give cause for divorce.

Shri S. S. More: How, if his whereabouts are known?

Shri Tek Chand: Kindly see.

There is a case of sentence and imprisonment, for seven years. So long as you are undergoing imprisonment for three years, that is a good ground for the other party though his conviction or his imprisonment might have been contributed by the guilty party. These are not measures that are being adopted and known in other lands. We have had no experience of their working. It would be most desirable that, if a Divorce Bill is to be introduced, divorce should be allowed only in the rarest of cases of real genuine provocation.

Shri Venkataraman: A long series of speeches have been delivered against the provisions contained in clause 27 that I am grateful to you for giving me this opportunity to put forward the point of view of a large number of people who have not given amendments. My hon. friend Shri N. C. Chatterjee said that nearly 12 Members have given amendments of the same kind for the deletion of clause (k). But, if he had analysed the amendments, he would have found that some of us have given amendments that sub-clause (k) may be deleted and substituted by something better of the same kind. If it were an argument that a large body of people are against this clause, what about the rest of the Members who have not given any amendments? Does it not mean that they are in favour of the clause as it stands in the Bill?

Shri Gadgil: No presumption can be drawn one way or the other.

Shri Venkataraman: Therefore, I do not propose to draw any inference except to say that the inference drawn by my hon. friend Shri N. C. Chatterjee is wrong.

Shri N. C. Chatterjee: I am in good company.

Shri Venkataraman: I now come to the specific amendment of which I have given notice, namely 97. My hon. friends Shri C. C. Shah and Shri Pataskar.....

Mr. Chairman: Since the hon. Member wants to introduce a new subject and it is already five o'clock I would request him to continue tomorrow. Now, we shall take up the half-an-hour discussion.

5 P. M.

Shri Raghavachari: Is the House sitting after 5 p.m.?

Sardar A. S. Saigal (Bilaspur): It is already five o'clock.

Mr. Chairman: Order, order. This is already on the Order Paper. There is nothing new about it.

SALE OF SOVIET PUBLICATIONS ON RAILWAY PLATFORMS

Shri V. P. Nayar (Chirayinkil): I raise this discussion on the basis of an answer given by the hon. Deputy Minister of Railways to one of my questions on the 6th September. I shall read out the question and the answer, in order that the House may appreciate why this discussion is raised.

My question was:

> "Will the Minister of Railways be pleased to state:
>
> (a) whether it is a fact that books and periodicals printed and published in the U.S.S.R. are not allowed to be sold on the railway platforms even now; and
>
> (b) whether Government will lay on the Table of the House a copy of the orders of Government in force with regard to this matter?"

The Deputy Minister of Railways answered, yes; that is, the sale of Soviet

[Shri V. P. Nayar]

literature has been completely banned. He further added of his own:

> "Government have issued instructions to Railway Administrations to discourage the sale at their bookstalls of literature which is of a tendentious nature.
>
> (b) It is regretted that it would not be in the public interest to do so."

The action taken by Government as admitted in the answer, is wrong in several ways. You konw Sir, that India has entered into a trade agreement with the Soviet Union very recently. This trade agreement has been violated by the orders of the Railway Ministry, because you find that the trade agreement says:

> "Both the Governments will in every possible way develop and strengthen the trade relations between the two countries on the principles of equality and mutual benefit."

Further, it adds:

> "For goods imported and exported from one country to other, both Governments pledge themselves to grant maximum facilities allowed by their respective laws, rules and regulations."

This trade agreement expressly specifies books and periodicals as articles which can be exchanged. I might invite the attention of the House to item 39 in the list of goods which we are to import from the Soviet Union, and to item 20 of the list of items which we are to export to the Soviet Union. They relate to printed matter including books and periodicals.

While this is so, when the two Governments which are friendly have entered into an agreement under which books and periodicals can be imported from one country into the other, I submit the action of the Railway Ministry in having banned all the publications of Soviet origin is against the very spirit of the agreement, and it is one which will, as a matter of fact, subvert the agreement itself.

I would have very much appreciated if the hon. Minister of Railways had the guts to tell us, "yes, I have banned these under such and such circumstances, these are the orders, I have issued etc. Instead of that, what does he say? He says that all Soviet literature has been banned because the Railway Ministry have issued instructions to the Railway Administrations that the sale of "tendentious literature" should not be encouraged. What does it mean? It means that all literature from the Soviet Union is tendentious, and therefore, the Railways do not find it possible to encourage their sales,

I do not think that anybody whose place is outside any lunatic asylum will think that the entire literature produced from a country is tendentious. I shall come to the really tendentious nature of some of the books and periodicals, this Ministry have allowed to sell, later on.

I also submit that this is a point in which the constitutional safeguards given are also violated. There is a fundamental right to do any trade or business. There is no law so far, forbidding sale of such books which has been violated. I would ask the hon. Home Minister, who, I understand, is replying to the debate today, to point out any specific provision of law which could stand the test of constitutionality under which the Railways, or for that matter, any other administration can enforce a ban on the sale of the entire literature of a Country.

In the present context of Indo-Soviet relations, this ban has very serious effects on the good relations of both the countries. One Ministry enters into an agreement with the Soviet Union, specifying that books and periodicals will be a subject-matter of exchange, while another Ministry passes an order prohibiting the sale of all literature which is covered by the agreement. One could have gauged the depth of the unfriendly attitude of the Railway Ministry in

regard to this matter, if only this item 'books and periodicals' had not been specifically mentioned as a commodity for interchange between the two countries. It is a pity—in fact, it is a misfortune, I should say, that we have such tendentious minds which have found places for themselves, places from which they can pass any orders, and go on repeating with impugnity that what they have done is correct.

When the Railways say that tendentious literature is not encouraged, I would request you to see some of the books which I have presented to the Library yesterday to be exhibited there. None of those books can be sold, because the entire Soviet literature is banned. You find in that collection not tendentious literature, but literature, which throughout the world is acknowledged as the best works of some of the greatest masters of literature. Maxim Gorky, Ivan Turgenev, Anton Checkov, Leo Tolstoy and Alexi Tolstoy are all names to confine with in world literature. Their works cannot be sold in these railway bookstalls because the Railways or the Railway Minister thinks that they will amount to tendentious literature. Also displayed in the Library are works of some of the greatest scientists who have ever lived. I refer to the works of Pavlov, Michurin, Lysenko, none of whose books can be sold on the railway bookstalls simply because they are produced in the Soviet Union. I can quote any number of instances, but I do not want to tire the House.

On the other hand, when this order of tendentious literature is applied, you must go and have a look round in some of the railway bookstalls to see what literature they really sell. Literature which is *per se* objectionable, *per se* tendentions, abnoxious and abominable and which none of us would care even to look at, is sold in very large numbers. There are any number of crime thrillers, which will interest my hon. friend Dr. Katju, because he is a great admirer of Sherlock Holmes, as he has several times said in this House. Here is a book, for example, with me. I have an American publication, called the *Best Detective*. It has ten stories, all of which relate to murder. They do not have any other topic to write a story upon, except the theme of murder. If Dr. Katju wants, I can make a present of this to him.

The Minister of Home Affairs and States (Dr. Katju): Please do. I shall be obliged.

Shri V. P. Nayar: I selected some other books at random. Here is another book, whose caption is 'Murder is so simple'. Inside it, you will see that the write-up on the front page is:

> "They died trusting him. Why should they suspect that the charming man who professed to love them so dearly was no more than a ruthless killer? Murder is after all so simple."

Shri K. K. Basu (Diamond Harbour): Not the Home Minister.

Shri V. P. Nayar: Not the Home Minister?

I have some other books also with me now. Any number of them, even hundreds of them, you can get in any of these bookstalls. Look at this book. It is entitled 'The D.A. calls it a murder'.

Shri M. S. Gurupadaswamy (Mysore): What is the price of this?

Shri V. P. Nayar: Twelve annas or fifteen annas.

Sardar A. S. Saigal (Bilaspur): Present it.

Mr. Chairman: I do not want to interrupt, but I must remind the hon. Member that only half an hour's time has been allotted for this discussion. If the hon. Member takes more than ten minutes, then it will be difficult for him to get a reply from Government.

Shri V. P. Nayar: Sir, in the past I have raised four or five half an

[Shri V. P. Nayar]

hour discussions, and every time, I have been given fifteen minutes.

Mr. Chairman: There are other hon. Members also who are desirous of speaking, and the hon. Member must necessarily expect some replies from Government also. If the hon. Member takes ten minutes, five minutes or more may be given for other Members, and ten minutes at least may be given to Government. Otherwise, proper use will not be made of this half-an-hour discussion.

Shri V. P. Nayar: I will not take one minute more than what is necessary.

Shri Joachim Alva (Kanara): In view of the importance of the subject, will you kindly extend it by another half an hour?

Mr. Chairman: It is a half-an-hour discussion only.

Shri V. P. Nayar: What I was submitting was that in the railway bookstalls when you have banned the works of some of the greatest men of letters who ever lived in this world, you find all sorts of crime thrillers, gangster stories, fornication and pornographic literature, pin-up studies—of which Dr. Katju himself got a present the other day—and all sorts of literature which we can call as most vulgar, obscene and profane. Their sales are encouraged by the railways because perhaps somebody in the railways wants to go through them or perhaps they have some other interests in their sale. On the other hand, there are publications and periodicals which come from the Soviet Union in which there are articles on Indian culture, on indology on Education, Science, Art etc. For example, I have before me one which gives a detailed account of the work done on Kalidasa's works in the Soviet Union. I am having two books in my hands. One is a pamphlet which shows on the cover page the portrait of a girl actually in the process of undressing. This is sold in the railway bookstalls; there is the stamp of Wheelers & Company on it. On the other hand, there is another magazine, *Soviet Land*, on the front page of which is a portrait of a Member of Parliament, a Member of the other House Mrs. Alva along with other leading Indian & Soviet women. This periodical cannot be sold in Railway premises whereas the other one with the undressed portrait is sold. This is the effect of the discrimination.

Shri S. S. More (Sholapur): That is a way of attracting passengers.

Shri V. P. Nayar: All the filth and rubbish which is produced in the U.S.A.....

Mr. Chairman: I would request the hon. Member to conclude. Otherwise, I will not be able to give a chance to others.

Shri V. P. Nayar: Two more minutes, Sir. All the filth and dirth and rubbish which is produced in tons in the gutter Press of the United States and U.K., by the Press tycoons, all the war-mongering literature, all really tendentious literature showing the designs of the imperialist aggressors are allowed to be sold in all the bookstalls. On the other hand, all literature devoted for peace, literature which comes from peace-loving countries, the Eastern European democracies, and China are not allowed to be sold in the bookstalls. This, I submit, nothing but is discrimination. This is definitely intended and deliberately so, to subvert the trade agreement recently entered into between India and the Soviet Union. I submit this should stop. This masquerading of Ministers as moralists must stop. I want the Home Minister to depart from his usual way of indulging in mere chicanery, to meet the situation, and to give us a definite undertaking that this discrimination shall not continue, that Government will end this discrimination and that hereafter our train passengers will have the benefit of purchasing at railway stations some of the greatest works of Masters.

Shri Joachim Alva: I want to ask the hon. Home Minister whether he proposes to draw an iron curtain between Soviet literature and literature of the East. His generation and the generation that preceded him, and my own generation, has been fed on the prose and verse of Milton, Shakespeare, Dickens and Scott. The children of the new generation and our own children seem to be fed on literature about crime, adultery, sex and murder. I say it with all the sense of a father, as every Member in this House and every father and mother in this country would say. It is only for the last ten years since the end of the last war that this gutter literature has infiltrated into our railway bookstalls. We have a solemn, moral and spiritual duty to our children to see that they do not read this literature. I have had to hide bad books from my own little boys, because I do not want them before they grow up to twenty-one, to see these things and be wafted away by the strong winds of infamy or crime literature. I speak very solemnly as a Christian, as an individual, as an Indian citizen, we have no right to defame our children by letting them read all this literature. Our children may not be versed in good English or Hindi, but they know how to skip through all these lurid magazines and pictures which we never saw in our earlier life. They are being allowed to be sold at the bookstalls. I want to ask the hon. Minister how much money has been wasted, how many dollars have been wasted, by the import of this kind of literature. If you propose to proscribe a particular set of literature, then put a ban on all such literature. If you want to ban Soviet literature, put a ban on all that type of literature and say that we shall not allow such books and literature to come into our country. We must admit frankly that the children's books produced in Russia are indeed extraordinarily beautiful. The literature that is produced in, and coming from America is training up our children to be dacoits, bandits, murderers and what not. If that is the modern set-up, then every one of us is guilty at the bar of public opinion. What has happened to our spiritual values, the great spiritual values which our forefathers had? Sir, we are drifting away. The railway bookstalls are going to distribute this kind of literature by tens, by thousands, and when the tide will be rushing, when the avalanche will be rushing, we will not be able to stop it. Why do we permit literature which slanders Soviet Russia? Why do we allow the *Reader's Digest*, which slanders Soviet Russia, to come to this country? Why do we permit *Time*, which slanders our Prime Minister, to come to India? Either we say that we ban all Soviet and Chinese literature or we do not. If we ban, we cannot allow all this literature from America to come in. If you want to import this objectionable stuff, let us have literature from the other side also and let us sell it all on our bookstalls. Let us have a balance. Let us restore the balance in politics and literature.

As I said, our children's taste for literature has been devoured by this avalanche of bad literature, by this literature depicting crime, sex and murder. Let us seriously take this into consideration. If *Time* newsmagazine slanders our Prime Minister on Kashmir, why do we allow it to come in and be sold in our bookstalls? We do not also allow the *New Times* of Moscow to enter our bookstalls. The *New Times* is a clean magazine. If some people were to say that one is unclean, we want to note both sides of the medal. We want to be familiar, with both sides of the science and philosophy of politics. Let us have both so that we can restore the balance. We have weeklies and other magazines which criticise the Prime Minister of India and our political values. They are being allowed to be openly sold. They take a stand in defence of Portugal and decry our stand on Kashmir. Is this not treason? At the same time, we do not permit clean books from Soviet Russia or China to be put on our bookstalls.

[Shri Joachim Alva.]

I do not want to take more of your time. But we have raised this matter time and again. What are we going to do with this literature in our bookstalls? Even a great man like Dr. Katju—I claim he is an incorruptible Minister of the Union Government—even he who has lived in the generation which fought for freedom, seems to be silent on this issue. I want people to take this seriously, these gross inroads of literature on our bookstalls. Mahatma Gandhi has time and again told us about Tolstoy's books. Are these books also going to be banned?

Some Hon. Members: Yes.

Shri Joachim Alva: Are Tolstoy's books, on which our freedom movement was based, and other books which contain great moral and spiritual values, going to be banned? We believe in the glory of all those who have fought for freedom in other countries. The sooner we lift this iron curtain, the better it would be for all of us.

Shri H. N. Mukerjee (Calcutta North-East): I wish only to ask one question which I hope, against hope, the Home Minister will answer seriously. In view of the fact that Soviet literature made available in this country is either reprint of classical expositions of Marxist ideology or serious objective description of Soviet society and its outlook on world affairs, or reprints of literary works by men like Tolstoy and Gorky, does not the Government's ban on their sale in railway boostalls, where they were previously on sale, amount to deliberate discrimination against the propagation of a theory that nearly half the world has accepted and an indirect but a very forcible intimation to all bookstalls the Government disapproves of the open sale of literature, specially on the theory and practice of Marx?

Shri M. S. Gurupadaswamy: I want to ask one question. Though it is a mistake to discriminate as between the literature of one country and that of another, I want to know whether our literature is being allowed to be freely sold in Russian bookstalls.

Dr. Katju: Ask our hon. friend Shri H. N. Mukerjee.

Shri M. S. Gurupadaswamy: If our literature is discriminated against, then there seems to be some justification in discriminating against Russian literature here.

Shri Bhagwat Jha Azad (Purnea *cum* Santal Pargenas): Is that a ground for discrimination?

Shri S. S. More: Let us have reciprocity!

Shri M. S. Gurupadaswamy: So I want a clarification whether our literature is allowed to be sold in Russian railway stations.

Shri Sadhan Gupta (Calcutta-South-East): Do we produce literature in Russian?

An Hon. Member: In Hindi.

Shri K. K. Basu: If a particular Marxist classics book were published from Britain or America, naturally the cost is four times what is price would be if it published in Soviet Russia. If it is printed in Britian it costs here Rs. 11/4 but if it is published from Soviet Russia it costs only Rs. 2/15.

There is another book by Engels 'Anti Duhring' I know the hon. Home Minister does not like that this book should be read because Government would probably lose if it is read popularly. But this is a classic by Engels, the British publication costs Rs. 7/6 while the Soviet publication costs only Rs. 1/14. What is his idea? Does he want to ban Soviet books from being brought here?

Dr. Katju: Sir, I shall very seriously and frankly say a few words.....

An Hon. Member: I want to put one question, Sir. The Chair did not see me. With the permission of the Minister.....

Mr. Chairman: According to rule 74 the hon. Member should have notified his name and there is no question of permission. He should have signed at least the notice under rule 74. I cannot allow the hon. Member to put a question. The hon. Minister has already started.

Dr. Katju: I was saying that in the very few minutes that I have, I shall be perfectly solemn and perfectly frank in answering some of the questions that have been raised here. I would not say what I would have been tempted to say on a complaint like this—whether it comes from this party or that party—that this literature or that literature has been banned, where there is no reciprocity, where it is an iron curtain for the study of everything.

What is a railway bookstall? A railway bookstall is conducted by contractors. Government is the proprietor. It is open to Government to say that the contractor should sell this and should not sell that. It is no argument to say that here is a stuff that is being sold.

Two years ago, the Railway Board issued specific instructions that unhealthy literature should not be sold....

An. Hon. Member: What is the definition of it?

Dr. Katju: .....that the bookstalls should be forbidden from selling unhealthy literature—no matter where it comes from, whether it is printed in India or whether it is printed abroad. I imagine the Railway Board would be only too grateful to any hon. Member if he should inform them if objectionable books are sold, whether it is printed here or elsewhere. I saw in Calcutta books which were printed in India to which objection was taken. Very well, you better communicate to the Railway Board. But the argument is this. It is said, here is rotten literature, rotten in the sense that it is all murders, gangsterism and things of that sort. Therefore, it is said, you must also allow us to sell our literature. There is no comparison in these matters. The word which was used, and deliberately used, in the answer was tendentious literature. Tendentious literature is something which purports or aims at saying—directly or indirectly by insinuations—your system of government is wrong, it is not sound and you should not follow this system of government—though in a persuasive way it may be. But, it is harmful. I am not blaming anyone. Everybody is singing his praise. Everybody wants co-existence. That is the aim of all our parties. It may be good for you. We have all sorts of Members here (*Interruption*). It may not be good for others also. You have an equal right of choice. Books printed in America or let us say printed in India are not welcomed in the U.S.S.R. My friend has brought it through the Trade Agreement with Soviet Russia that this thing should be done and that thing should be done. (*Interruption*).

My friends are frequently going to that part of the globe. I do hope that they will try their best to see that every book that is printed in India in favour of capitalism, in favour of landlordism, could be brought over there; every book which praises a particular religion could be bought over there. Let them say that every book should have access there, should be sold through Government bookstalls and let me see what response they will have.

Shri B. C. Das (Ganjam South): Does he know that Tulsidas' Ramayana has been translated into Russian?

Dr. Katju: It is no use interrupting me in this fashion. Shri Mukerjee is following my remarks. There is no answer to that.

The second thing is this. My hon. friend, Mr. Basu, said, look at this: they are selling books at cheap prices, books which would have cost Rs. 5/- in printing alone; these are generous people, they are very regardful of our spiritual, and material advancement, intellectual advancement, who

[Dr. Katju]

are selling those books here for five annas or nine annas—books which will obviously cost Rs. 5/- for printing alone.

An Hon. Member: Five rupees in India and not there.

Dr. Katju: I may be a man of old fashion.....

Dr. Jaisoorya (Medak): I am sorry to say very old fashion.

Dr. Katju: When a man offers to me a million books at the rate of nine annas which will cost anywhere about Rs. 5/- I become, naturally, a little suspicious. I ask a question for which I do not expect an answer. Where do the proceeds go? Tell me. My hon. friends over there know much better than I do as to where the proceeds go.

Dr. Rama Rao (Kakinada): Ask the banks; it goes to Russia.

Mr. Chairman: This kind of interference is not fair. This should be done in a more gentle way.

Dr. Katju: You have taken away two minutes of the ten minutes I had.

Shri H. N. Mukerjee: On a point of order, Sir. Is it the way of asking a question and expecting us not to give an answer thereto and thereby insinuating very definitely that the proceeds of certain sales are more or less managed by ourselves? That kind of insinuation is, I submit, absolutely out of order, frivolous and objectionable.

Mr. Chairman: The hon. Member has raised this point of order with certain vituperative expression's attached to it. It would have been proper for the hon. Member to ask a question. I would not have objected to it. But, when the hon. Minister is replying, and in the heat of his argument, for another member to rise up and shout like this is not in keeping with decorum.

Shri H. N. Mukerjee: I want to know whether this kind of insinuation is to be permitted.

Mr. Chairman: If the question is put and if the reply is not made, he can draw his conclusion and proceed. But, at least the etiquettes of good discussion require that a person should be heard and should not be shouted at when he is speaking.

Shri H. N. Mukerjee: Are we expected to say where certain proceeds go? Why can't he ask A. H. Wheeler and Company, his railway bookstall contractors, where they send the money? What is the insinuation?

Dr. Katju: I have always come to the conclusion that when there is shouting on the opposite side, the thing is correct and it hurts. If my hon. friends had sat quiet and thought that here is an argument advanced by Dr. Katju, who is a lawyer, then it would be different. If they are infuriated, that means that the thing is substantially true and there is no answer except shouting (*Interruptions*).

Shri S. S. More: I want to know ...(*Some Hon. Members*: Sit down.)

Mr. Chairman: Will he resume his seat?

Shri S. S. More: Sir, I want to know..... (*Some Hon. Members*: Order, order). I only want to know..

Mr. Chairman: Order, order. The hon. Members should know that they should sit down when the Chair is standing. This persistence in standing is not fair. After all, Mr. More is an old parliamentarian. He knows the rules of the House and I am shouting at him to sit down and he will not sit down. He ought to keep cool and not get excited on matters like this. It is not a matter on which we can argue against each other in this fashion.

Shrimati Renu Chakravartty (Basirhat): On a point of information, Sir. Are we to take it that the Minister of Home Affairs is not able

to find out through the banks where the money is going?

Does he stand here and say that he has not found out where that money goes though open transactions are going on and regular accounts books are kept? Then he should resign.

Dr. Katju: Now, I do not want to go into any details, but may I ask my hon. friend Mrs. Renu Chakravartty to come to me in my room and I will give her the requisite information. (*Interruptions.*)

Mr. Chairman: It is now 5-30 and the House stands adjourned.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 16th September, 1954.